

2006 JAN 25 AM 11: 47
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

COPY

**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 45-2583, 45-2689, 45-7020, 45-7035,
45-7110, 45-7238, AND 45-7374**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
Donald V. Shaff, Adjudication Bureau Chief

January 25, 2006

TABLE OF CONTENTS

INTRODUCTION	3
SUMMARY OF THE ISSUES	3
BACKGROUND	4
A. Permits and Licenses	4
1. Water Right No. 45-2583	4
2. Water Right No. 45-2689	5
3. Water Right No. 45-7020	6
4. Water Right No. 45-7035	7
5. Water Right No. 45-7110	8
6. Water Right No. 45-7238	9
7. Water Right No. 45-7374	9
B. Transfer Proceeding to Consolidate Points of Diversion so as to Irrigate by a Common Irrigation System	10
C. SRBA Claims and Recommendations	11
1. Water Right No. 45-2583	12
2. Water Right No. 45-2689	14
3. Water Right No. 45-7020	15
4. Water Right No. 45-7035	16
5. Water Right No. 45-7110	16
6. Water Right No. 45-7238	17
7. Water Right No. 45-7374	17
D. Cummins' Objections to the Department's Recommendations	18

DISCUSSION	19
A. Bases for the Department’s Combined Diversion Limitations	19
1. Well No. 1: NENW of Section 9	19
2. Well No. 2: SESE of Section 9	20
3. Well No. 3: SWSW of Section 10	20
4. Well No. 4: NWNW of Section 15	21
5. Total Combined Diversion Limitation	23
B. The Application for Transfer did not Approve the Cumulative Quantity of the Seven Licenses	24
CONCLUSION	26
CERTIFICATE OF SERVICE	27

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, and Special Master Dolan's November 10, 2005, *Trial Schedule Order*, the Director of the Idaho Department of Water Resources ("IDWR" or "Department") submits this Supplemental Director's Report ("Report") regarding subcase numbers 45-2583, 45-2689, 45-7020, 45-7035, 45-7110, 45-7238, and 45-7374; setting forth the bases for the Department's recommendations for those water rights. The Report was prepared under the supervision of Karl J. Dreher, Director, and Donald V. Shaff, Adjudication Bureau Chief.

The following Department employees have knowledge of the information contained in the Report: David R. Tuthill, Jr., Administrator, Water Management Division, and Douglas R. Jones, Engineer, Technical 1, Southern Region Office in Twin Falls.

II. SUMMARY OF THE ISSUES

At issue are the Department's recommendations for seven licensed ground water rights in Basin 45, currently owned by Cummins Farms, Inc. ("Cummins"), which are located in the West Oakley Fan Critical Ground Water Area. In its Basin 45 Director's Report for Irrigation and Other Uses, the Department recommended each of Cummins' seven claims, but limited the combined diversion rate to 20.23 cubic feet per second ("cfs"). According to its objection, Cummins believes the Department's recommendation is in error because the quantity of its seven rights total 29.06 cfs. Cummins argues that the Department agreed to the diversion of 29.06 cfs when it approved a 1985 transfer that stated that the amount of water to be diverted was 29.06 cfs. While the Department acknowledges the 1985 transfer--which only approved a change in the points of diversion to consolidate those points of diversion into a common irrigation system--and the fact that, cumulatively, the seven licenses total more than 20.23 cfs, the Department's

recommendation is based on the position that the four wells in the Cummins system are not capable of, and have not historically pumped more than 20.23 cfs.

III. BACKGROUND

A. Permits and Licenses

Cummins' predecessors-in-interest held seven licensed ground water rights in Basin 45 for irrigation. The following is a chronological history of the development of Cummins' seven water rights, from permit to license. Figure 1, attached hereto, illustrates the licenses' original places of use and points of diversion.

1. Water Right No. 45-2583

The original application for permit for water right no. 45-2583 (permit no. 27993) was filed on June 19, 1959 by Maxine Call Garner. The application sought to divert 6.4 cfs for the irrigation of 320 acres from a well in the SESE of Section 9. In 1962, a licensing examination was performed by the Department, which found a well in the SESE of Section 9 with a pumping capacity of 1.82 cfs for use on 245 acres. The license was silent, however, with respect to the allocated volume of water.

On June 25, 1964, permit no. 27993 was licensed in the name of Maxine Call Garner with the following pertinent elements:

Priority	6/19/1959
Point of Diversion	T.11S., R.21E., Sec.9 SESE
Quantity	1.82 cfs from well in SESE of Sec. 9
Place of Use	T.11S, R. 21E., Sec.9 SENE(40 acres), SWNE(40), SENW(40), N1/2SE(80), SESE(40), SWSE(40): 245 acres

A true and correct copy of license no. 27993 is attached hereto as Attachment A.

2. Water Right No. 45-2689

The original application for permit for water right no. 45-2689 (permit no. 30884) was filed on November 9, 1962 by C. Leroy Garner. The application sought to divert 6.0 cfs. The original application, however, was amended on various occasions to change the permitted place of use. The permit did not state how many acres were intended for irrigation; however, line 13 of the permit did state that “[s]ome water is available to the land under Permit No. G-27993 but the water under G-27993 is not sufficient to irrigate the land and this [sic] to supplement water on part of the lands shown under Permit No. G-27993.” A true and correct copy of permit no. 30884 is attached hereto as Attachment B.

In 1965, a licensing examination was performed by the Department, which found a well in the SWSW of Section 10 with a pumping capacity of 5.82 cfs for use on 494 acres. At the time of the licensing examination, it was found that the place of use for permit no. 30884 right fully overlapped the place of use for water right no. 45-2583. The license was silent, however, with respect to allocated volume of water.

On March 22, 1967, permit no. 30884 was licensed to C. Leroy Garner and Assignee Mary J. Conrad with the following pertinent elements:

Priority	11/9/1962
Point of Diversion	T.11S., R.21E., Sec.10 SWSW
Quantity	5.82 cfs from well in SWSW of Sec. 10
Place of Use	T.11S., R.21E., Sec.8 NENE(40 acres); Sec.9 NE(160), NENW(40), NWNW(40), S1/2NW(80), SE(160); 494 acres

A true and correct copy of license no. 30884 is attached hereto as Attachment C.

3. Water Right No. 45-7020

The original application for permit for water right no. 45-7020 (permit no. 45-7020) was filed on November 12, 1970 by Howard E. Conrad. The original application for permit sought to divert 3.76 cfs from two wells in Section 8 for use on 188 acres. The application, however, was amended on two occasions to add points of diversion. The first amendment, in 1970, added a well in the SWSW of Section 10; the second amendment, in 1973, added a well in the NWNW of Section 15. Thus, four wells were originally proposed for permit no. 45-7020.

The licensing examination for permit no. 45-7020 was performed in 1973. During the examination, the licensing examiner found two wells. One well, located in the SWSW of Section 10, was determined to already be utilized to its full pumping capacity, 5.82 cfs, for water right no. 45-2689 (see previous discussion, *supra*, regarding water right no. 45-2689). A second, contributing well was located in the NWNW of Section 15 and determined to have a pumping capacity of 5.90 cfs. No wells were found to be developed in Section 8, as proposed in the permit and subsequent amendments. Therefore, the only well licensed for permit no. 45-7020 was the well located in the NWNW of Section 15, for the permitted flow rate of 3.76 cfs.

On March 5, 1974, permit no. 45-7020 was licensed in the name of Howard E. Conrad with the following pertinent elements:

Priority	4/6/1967
Point of Diversion	T.11S., R.21E., Sec.15 NWNW
Quantity	3.76 cfs, 752.0 afy from well in NWNW of Sec. 15
Place of Use	T.11S., R.21E., Sec. 7 SWSE(10 acres), SESE(30); Sec.8 SENW(10), NESW(38), NWSW(20), SWSW(40), SESW(40): 188 acres

A true and correct copy of license no. 45-7020 is attached hereto as Attachment D.

4. Water Right No. 45-7035

The original application for permit for water right no. 45-7035 (permit no. 45-7035) was filed on February 28, 1969 by Howard Conrad. The application originally proposed three wells in Section 16 to divert 6.4 cfs for the irrigation of 320 acres. An amendment to the original application was approved in 1972, which added the existing well in the NWNW of Section 15 (see previous discussion, *supra*, regarding water right no. 45-7020). Thus, four wells were originally proposed for permit no. 45-7035. Proof of beneficial use, however, was filed identifying only the well in the NWNW of Section 15 as the point of diversion.

In 1974, a licensing examination was performed by the Department. The examination did not indicate that wells in Section 16 were ever constructed. It was further noted by the licensing examiner that the same 450 horsepower General Electric motor that was in place at the time of examination for water right no. 45-7020 was still in place and being used to divert water from the well in the NWNW of Section 15. During the licensing examination for permit no. 45-7035, pump capacity of the well in the NWNW of Section 15 was measured, indicating a flow of 5.79 cfs--a .11 cfs decrease from the licensing examination for water right no. 45-7020 in 1973. The license for permit no. 45-7035 was issued for 5.79 cfs for the irrigation of 320 acres, with an allocated volume of 1,280 acre-feet.

On March 26, 1975, permit no. 45-7035 was licensed in the name of Howard Conrad with the following pertinent elements:

Priority	2/28/1969
Point of Diversion	T.11S., R.21E., Sec.15 NWNW
Quantity	5.79 cfs, 1,280 afy from well in NWNW of Sec. 15
Place of Use	T.11S., R.21E., Sec.16 NENE(40acres), NWNE(40), SWNE (40), SENE(40), NESE (40), NWSE(40), SWSE (40), SESE(40): 320 acres

A true and correct copy of license no. 45-7035 is attached hereto as Attachment E.

5. Water Right No. 45-7110

The original application for permit for water right no. 45-7110 (permit no. 45-7110) was filed on September 18, 1972 by Conrad Land and Livestock, Inc. The application sought to divert 4.0 cfs for the irrigation of 320 acres from wells in the NWNW and NENW of Section 15. Proof of beneficial use, however, was filed identifying only the well in the NWNW of Section 15 as the point of diversion. The licensing examination for permit no. 45-7110 was conducted in 1978. Among other things, the licensing examiner measured a pumping capacity of 5.48 cfs for the well in the NWNW of Section 15--a .42 cfs decrease from the licensing examination for water right no. 45-7020 in 1973. The same 450 horsepower General Electric motor was in place as was recorded in the licensing examinations for water right nos. 45-7020 and 45-7035.

In 1979, prior to issuance of the license, an amendment was filed describing the point of diversion as the NWNW of Section 15.¹ On April 26, 1979, permit no. 45-7110 was licensed in the name of Conrad Land and Livestock, Inc. with the following pertinent elements:

Priority	9/18/1972
Point of Diversion	T.11S., R.21E., Sec.15 NWNW
Quantity	3.98 cfs, 1,240 afy from well in NWNW of Sec. 15
Place of Use	T.11S., R.21E., Sec.15 NENW(39 acres), NWNW(38), SWNW(39), SENW(39), NESW(39), NWSW(39), SWSW(38), SESW(39): 310 acres

A true and correct copy of license no. 45-7110 is attached hereto as Attachment F.

¹ Licensing amendments are often done so that the permit holder endorses the changes to the permit proposed by the license prior to the license being issued.

6. Water Right No. 45-7238

The original application for permit for water right no. 45-7238 (permit no. 45-7238) was filed on April 28, 1975 by Howard Conrad. The application sought to divert 6.4 cfs from a well in the NENW of Section 10, as well as three others in Section 18. Thus, four wells were originally proposed for permit no. 45-7238. In 1980, the Department conducted a licensing examination for permit no. 45-7238, which found that the only well that was ever developed was located in the NENW of Section 9. The licensing examination determined that the pumping capacity of the well was 6.69 cfs. Only 6.4 cfs was permitted and that rate of flow was what was licensed.

On April 29, 1982, permit no. 45-7238 was licensed in the name of Howard Conrad with the following pertinent elements:

Priority	5/2/1975
Point of Diversion	T.11S., R.21E., Sec.9 NENW
Quantity	6.4 cfs, 2,536 afy from NENW of Sec. 9
Place of Use	T.11S., R.21E., Sec.18 NENE(40 acres), NWNE(40), SWNE(40), SENE(40), NENW(39), NWNW(38), SWNW(39), SENW(40), NESW(40), NWSW(39), SWSW(39), SESW(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 634 acres

A true and correct copy of license no. 45-7238 is attached hereto as Attachment G.

7. Water Right No. 45-7374

The original application for permit for water right no. 45-7374 (permit no. 45-7374) was filed on April 11, 1979 by Conrad Land and Livestock. The application sought to divert 3.2 cfs for the irrigation of 160 acres from a well in the NWNW of Section 15. During the 1979 licensing examination, pumping capacity of the well was measured at 5.47 cfs--a .43 cfs decrease from the licensing examination for water right no. 45-7020 in 1973. It was further noted that the

same 450 horsepower General Electric motor was in place as was recorded in the license examinations for water right nos. 45-7020, 45-7035, and 45-7110. The examiner remarked that, together with license 45-7110--the licensing examination that the examiner had conducted a year earlier--the rate of flow should be limited to a total of 5.47 cfs--the measured capacity of the well in the NWNW of Section 15. Therefore, a "Condition" was added to license no. 45-7374, which stated that "[t]he maximum rate of diversion under this license when used in combination with License no. 45-7110 shall not exceed 5.47 cfs."

On January 31, 1980, permit no. 45-7374 was licensed with the following pertinent elements:

Priority	4/11/1979
Point of Diversion	T.11S., R.21E., Sec.15 NWNW
Quantity	3.10 cfs, 620 afy from well in NWNW of Sec. 15
Place of Use	T.11S., R.21E., Sec.10 NESW(40), NWSW(40), SWSW(36), SESW(39): 155 acres

A true and correct copy of license no. 45-7374 is attached hereto as Attachment H.

B. Transfer Proceeding to Consolidate Points of Diversion so as to Irrigate by a Common Irrigation System

On June 27, 1985, Howard E. Conrad filed *Application for Transfer No. 3205 to Change the Point of Diversion and/or the Place of Use* ("Application for Transfer") to water right nos. 45-2583, 45-2689, 45-7020, 45-7035, 45-7110, 45-7238, and 45-7374. A true and correct copy of the Application for Transfer is attached hereto as Attachment I. Under the "General information" heading of paragraph C, Howard E. Conrad stated that the amount of water diverted

was 29.06² cfs by means of wells, motors, and pumps. *Application for Transfer*, ¶ C(1)(a) and (b). The stated “reasons for the proposed changes” were to “consolidat[e] points of diversions as to irrigate all of the ground by one common system.” *Id.* at ¶ C(1)(c). The points of diversion were changed to the following legal descriptions: T.11S., R.21E., Sec. 9 NESE (two points),³ NENW, SESE; Sec. 10 SWSW; and Sec. 15 NWNW. *Id.* at ¶ C(2). The Application for Transfer stated that there was “no change” to the place of use. *Id.* at ¶ C(3).

Howard E. Conrad attested in the Application for Transfer 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.” The Application for Transfer was approved by L. Glen Saxton, Chief, Operations Bureau, on October 21, 1985.

C. SRBA Claims and Recommendations

Cummins’ predecessor-in-interest filed seven claims for water rights in the Snake River Basin Adjudication (“SRBA”), based upon the above-mentioned licenses, each of which was recommended by the Department, but with combined diversion limitations, based upon the maximum extent of historic beneficial use.

Claim analysis commenced with a review of the licenses that were issued, noting the point of diversion, place of use descriptions, and licensing examination reports. A site visit to each claimed well location was completed as part of preparing the recommendation. In addition,

² Conrad stated in paragraph C(1)(a) of the Application for Transfer that the amount of water diverted was 29.06 cfs. This value is equivalent to the face value of water right nos. 45-2583, 45-2689, 45-7020, 45-7035, 45-7238, and combined limitation of 5.47 cfs on water right nos. 45-7110 and 45-7374.

³ As will be discussed below in the description of the claim and recommendation for water right no. 45-7374, the two points of diversion in the NESE of Section 9 were never fully developed and could not be recommended by the Department.

Geographic Information System (“GIS”) analysis was incorporated to clearly delineate the irrigated areas and diversion points for each water right (also known as “wells”).

On February 18, 2004, the well sites were visited to verify the numbers, locations, and pump equipment for all the claimed diversion points. Wells were located with a global positioning system receiver and the data was recorded for use in the GIS analysis for the recommendations. Pump motor makes, sizes, and serial numbers were recorded for comparison with information from previous field examinations. Flow rates were not measured during the February 18, 2004 fieldwork.

For purposes of this section, the Department will limit discussion to a chronological recitation of claimed and recommended elements. In Part IV of this Report, *infra*, the Department will discuss the necessity for the combined use limitations.

1. Water Right No. 45-2583

On March 17, 1989, Conrad Land & Livestock, Inc. filed a claim in the SRBA to water right no. 45-2583, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	6/19/1959	6/19/1959
Quantity	1.82 cfs	1.82 cfs, 888.0 afy
Point of Diversion	T.11S., R.21E., Sec.9 NWNWNE, SESESE; Sec. 10 SWSWSW; Sec.15 NWNWNW	T.11S., R.21E., Sec.9 NENENW, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW
Place of Use	T.11S, R. 21E., Sec.7 NESE(3 acres), SESE(3); Sec.8 NENE(9), NWNE(4), SWNE(34), SENE(40), NWSW(3): 96.0 acres	T.11S, R. 21E., Sec.8 NENE (25 acres); Sec.9 NWNE(32), SENE(40), NWNW(38), SENW(40), NESE(40), SWSE(39), NENE(39), SWNE(40), NENW(32), SWNW(40), NESW(10), NWSE(40), SESE(39): 494 acres , limited to 245 acres for water right no. 45-2583

Figure 2, attached hereto, shows the place of use and points of diversion recommended for water right nos. 45-2583, 45-2689, and 45-10274.⁴

The original claim indicated that the claimed place of use represented an unrecorded transfer of acres from where they were licensed to lands not covered by another ground water source right. Although the claim attempted to transfer acres from where they were licensed, it was concluded that this represented an unstacking of rights and enlargement of use and could not be recognized. Water right no. 45-2583 was therefore recommended for the full 245 acres licensed, though only 96 acres were claimed, within a 494 acre permissible place of use with water right nos. 45-2689 and 45-10274.⁵

Because the license for water right no. 45-2583 was silent with respect to the allocated volume of water, and since volume is a required element in the SRBA for a water right from a ground water source, it was necessary for the Department to assign a volume. As will be discussed in detail below, a volume of 888 acre-feet, representing the maximum water volume that the well could produce, was recommended.

The standard maximum allowable volume of water allocated per acre in the vicinity of the Cummins' property is four acre-feet per acre per annum. Maximum Allowable Volume ("MAV") for a water right is then calculated to be the number of developed acres multiplied by four (number of acres X 4 = MAV). If, however, the developed flow rate cannot produce the MAV in an irrigation season of continuous pumping, a lesser amount, or Well Capacity Volume ("WCV"), is licensed or recommended. WCV is calculated as flow rate multiplied by the number of days in the irrigation season, multiplied by 1.9835 (each cubic foot per second equates

⁴ Water right no. 45-10274 is an unobjected, overlapping right.

⁵ Beneficial use claim 45-10274 was recommended for 10 acres not included on either water right nos. 45-2583 or 45-2689, but was developed contemporaneously with water right no. 45-2583 before the application was filed for water right no. 45-2689. This recommendation was allocated a volume of water commensurate with the MAV but limited when combined with water right no. 45-2583 to the licensed flow rate and the WCV volume on water right no. 45-2583.

to 1.9835 acre-feet per day [af/day/cfs] if diverted continuously for twenty-four hours). The irrigation season in the vicinity of the Cummins' property is March 15 to November 15, totaling 246 days in duration.

As stated above, water right no. 45-2583 was licensed for 1.82 cfs for the irrigation of 245 acres, which results in a MAV of 980 acre-feet. However, the flow rate of 1.82 cfs cannot produce this volume in an irrigation season; therefore, in order to determine volume, the WCV must be calculated and recommended.

For water right no. 45-2583, the WCV is calculated as follows: $1.82 \text{ cfs} \times 1.9835 \text{ af/day/cfs} \times 246 \text{ days/year} = 888 \text{ afy}$. Simplifying part of the above equation (1.9835×246) yields a factor of 488 afy/cfs that can be applied to any diversion rate in this area to determine the WCV of the well. Water right no. 45-2583 is closely associated with water right nos. 45-2689 and 45-10274.

2. Water Right No. 45-2689

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-2689, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	11/9/1962	11/9/1962
Quantity	5.82 cfs	5.82 cfs, 1,976.0 afy
Point of Diversion	T.11S., R.21E., Sec.9 NWNWNE, SESESE; Sec. 10 SWSWSW; Sec.15 NWNWNW	T.11S., R.21E., Sec.9 NENENW, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW
Place of Use	T.11S, R. 21E., Sec.8 NENE (17 acres); Sec.9 NENE(40), NWNE(40), SWNE(40), SENE(40), NENW(37), NWNW(40),SWNW(40),SENW(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 494 acres	T.11S, R. 21E., Sec.8 NENE (25 acres); Sec.9 NENE(39), NWNE(32), SWNE(40), SENE(40), NENW(32), NWNW(38),SWNW(40),SENW(40), NESW(10), NESE(40), NWSE(40), SWSE(39), SESE(39): 494 acres

Figure 2, attached hereto, shows the place of use and points of diversion recommended for water right nos. 45-2583, 45-2689, and 45-10274.

Like water right no. 45-2583, the license for water right no. 45-2689 did not assign a volume. Water right no. 45-2689 fully overlaps the 245 acres licensed in water right no. 45-2583 and includes an additional 249 acres. The land is recommended the MAV of 1,976 afa (494 ac x 4 = 1,976 afy), although the flow rate of the well is capable of diverting a WCV of 2,840 afa (5.82 cfs x 488 = 2,840 afy) since the MAV is less than the WCV. Because the place of use for water right no. 45-2689 fully overlaps the place of use for water right no. 45-2583, the combined rights' diversion volume is limited to 1,976 afy.

3. Water Right No. 45-7020

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-7020, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	4/6/1967	4/6/1967
Quantity	3.76 cfs	3.52 cfs, 703.20 afy
Point of Diversion	T.11S., R.21E., Sec.9 NWNWNE, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW	T.11S., R.21E., Sec.9 NENENW, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW
Place of Use	T.11S., R21E., Sec.7 NESE(3 acres), SWSE(7), SESE(30); Sec.8 SENW (10), NESW(38), NWSW(20), SWSW(40), SESW(40): 188 acres	T.11S., R. 21E., Sec.7 NESE(.7 acres) SWSE(5.7), SESE(31); Sec. 8 SENW (9.4), NESW(35), NWSW(20), SWSW(39), SESW(35): 175.8 acres

Figure 3, attached hereto, shows the place of use and points of diversion recommended for this right.

The claimed place of use for water right no. 45-7020, 188 acres, differs slightly from the recommendation of 175.8 acres. The reason for the reduction in acreage is based on a more exact degree of measurement than was previously available at the time of licensing. Because of the 12.2-acre reduction in the place of use, the rate of flow and volume were commensurately

reduced. A condition was included in the recommendation that described partial forfeiture between the years 1976 and 1992.

4. Water Right No. 45-7035

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-7035, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	2/28/1969	2/28/1969
Quantity	5.79 cfs	5.79 cfs, 1,280 afy
Point of Diversion	T.11S., R.21E., Sec.15 NWNWNW	T.11S., R.21E., Sec.15 NWNWNW
Place of Use	T.11S., R.21E., Sec.16 NENE (40acres), NWNE(40), SWNE(40), SENE(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 320 acres	T.11S., R.21E., Sec.16 NENE (40acres), NWNE(40), SWNE(40), SENE(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 320 acres

Figure 4, attached hereto, shows the place of use and point of diversion recommended for this right.

5. Water Right No. 45-7110

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-7110, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	9/18/1972	9/18/1972
Quantity	3.98 cfs for irrigation .02 cfs for stockwater	3.98 cfs, 1,240 afy for irrigation .02 cfs, 8 afy for stockwater
Point of Diversion	T.11S., R.21E., Sec.15 NWNWNW	T.11S., R.21E., Sec.15 NWNWNW
Place of Use	T.11S., R.21E., Sec.15 NENW (39 acres), NWNW(38), SWNW(39), SENW(39), NESW(39), NWSW(39), SWSW(38), SESW(39): 310 acres	T.11S., R.21E., Sec.15 NENW (39 acres), NWNW(38), SWNW(39), SENW(39), NESW(39), NWSW(39), SWSW(38), SESW(39): 310 acres

Figure 5, attached hereto, shows the place of use and point of diversion recommended for this right.

6. Water Right No. 45-7238

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-7238, which was recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	5/2/1975	5/2/1975
Quantity	6.4 cfs	6.4 cfs, 2,536 afy
Point of Diversion	T.11S., R.21E., Sec.9 NWNWNE, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW	T.11S., R.21E., Sec.9 NENENW, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW
Place of Use	T.11S., R.21E., Sec.18 NENE (40 acres), NWNE(40), SWNE(40), SENE(40), NENW(39), NWNW(38), SWNW(39), SENW(40), NESW(40), NWSW(39), SWSW(39), SESW(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 634 acres	T.11S., R.21E., Sec.18 NENE (40 acres), NWNE(40), SWNE(40), SENE(40), NENW(39), NWNW(38), SWNW(39), SENW(40), NESW(40), NWSW(39), SWSW(39), SESW(40), NESE(40), NWSE(40), SWSE(40), SESE(40): 634 acres

Figure 6, attached hereto, shows the place of use and points of diversion recommended for this right.

7. Water Right No. 45-7374

On March 17, 1989, Howard Conrad filed a claim in the SRBA to water right no. 45-7374, which was amended by Cummins on July 28, 2004, and recommended by the Department, and depicted as follows:

	Claim	Recommendation
Priority	4/11/1979	4/11/1979
Quantity	3.10 cfs	3.10 cfs, 620 afy
Point of Diversion	T.11S., R.21E., Sec.9 SESESE, NENENW, NESE (2 points); Sec.10 SWSWSW; Sec.15 NWNWNW	T.11S., R.21E., Sec.9 NENENW, SESESE; Sec.10 SWSWSW; Sec.15 NWNWNW
Place of Use	T.11S., R.21E., Sec.10 NESW(40), NWSW(40), SWSW(36), SESW(39): 155 acres	T.11S., R.21E., Sec.10 NESW(40), NWSW(40), SWSW(36), SESW(39): 155 acres

Figure 7, attached hereto, shows the place of use and points of diversion recommended for this right.

The 1985 Application for Transfer, which was approved by the Department, sought to add two points of diversion in the NESE of Section 9. However, neither pumps nor electric service were observed at the proposed well sites during the February 18, 2004 site examination. Therefore, the Department did not recommend points of diversion in the NESE of Section 9 for water right no. 45-7374.

D. Cummins' Objections to the Department's Recommendations

On January 4, 2005, Daniel Cummins, on behalf of Cummins Farms, Inc., objected to the Quantity elements for each of the water rights recommended by the Department. In an "Exhibit" attached to each objection, Cummins described its reasons for objecting as follows:

Water right numbers 45-7374 and 45-7110 are limited to a combined 5.47 cfs quantity or flow, per condition of limitation of license.

The water right numbers 45-2583, 45-7035, 45-7020, 45-7238, and 45-2689 have no limitation of quantity or flow per the licensed rights. And in the aggregate these rights are licensed for 23.59 cfs.

The approved transfer of all the aforementioned water rights, as attached to this objection, allows for the aggregate quantity or flow of 29.06 cfs for the 23.59 cfs and the 5.47 cfs of approved quantity.

In the adjudication recommended right report, the I.D.W.R. ignored the licensed rights and the approved transfer by recommending a reduction of quantity of 8.83 cfs to a combined total diversion rate of 20.23 cfs. This I.D.W.R. recommendation has ignored all historical proof of the water right transfer approved on October 21, 1985 as well as all licensed rights, applied for and approved dating back to June 19, 1959.

This farm was purchased on February 11, 1999, with the market value or purchase price predicated on the validity of these approved water rights. I have complied with the appropriate change of ownership forms (1409) and I now am being forced to file this objection to the I.D.W.R. recommendations to protect my investment because the I.D.W.R. has arbitrarily reduced my water rights by 8.83 cfs, which equates to a 30% reduction and will force me to take all appropriate legal action. This IDWR recommendation will result in a 30% diminution in the value of my land, which I find completely unacceptable.

I respectfully request the SRBA court reject the IDWR recommendations.

On July 7, 2005, Kevin J. Beaton filed a Notice of Appearance on behalf of Cummins.

IV. DISCUSSION

A. Bases for the Department's Combined Diversion Limitations

At issue in this case is whether the Department properly recommended Cummins' seven water rights with combined diversion limitations of 20.23 cfs, or whether the Department should have recommended the aggregate quantity Cummins' seeks in its objection: 29.06 cfs. As will be illustrated below, the combined diversion limitations are proper because the four wells in the Cummins' system are not capable of, and have not historically pumped more than 20.23 cfs.

In Part III, *supra*, Cummins' seven water rights were discussed chronologically. In this section, however, Cummins' seven water rights will be grouped in accordance with the location of the well by which the places of use are irrigated. The Cummins property has four wells in the following locations: (1) NENW of Section 9, with a maximum pumping capacity of 6.69 cfs; (2) SESE of Section 9, with a maximum pumping capacity of 1.82 cfs; (3) SWSW of Section 10, with a maximum pumping capacity of 5.82 cfs; and (4) NWNW of Section 15, with a maximum pumping capacity of 5.9 cfs. The four wells therefore have a maximum pumping capacity of 20.23 cfs--the amount recommended by the Department for the Cummins system. The following is a review of each well on record for the Cummins' system and the Department's combined use limitations. Table 1, attached hereto, summarizes the information presented below.

1. Well No. 1: NENW of Section 9

a. Water Right No. 45-7238

The first well in the Cummins system is located in the NENW of Section 9. The only pump that services the well in the NENW of Section 9 has a maximum historic diversion capacity of 6.69 cfs. Water right no. 45-7238 is recommended to pump the licensed flow rate of

6.4 cfs. The additional .29 cfs was included in the overall combined diversion rate, although that flow rate was not licensed to any specific ground.

2. Well No. 2: SESE of Section 9

a. Water Right No. 45-2583

The second well in the Cummins system is located in the SESE of Section 9. The only pump that services the well in the SESE of Section 9 has a maximum historic diversion capacity of 1.82 cfs. However, because water right no. 45-2689, with a maximum historic diversion capacity of 5.82 cfs, fully overlaps the place of use for water right no. 45-2583, it was necessary for the Department to craft the following combined diversion limitation:

Use of the rights listed below is limited to a total combined diversion rate of 7.64 cfs and to a total combined annual diversion volume of 1,976 af. Combined right nos.: 45-2583, 45-2689, and 45-10274.

Water right no. 45-10274 was developed as additional acres under the diversion rate developed for water right no. 45-2583 and was limited when combined with that water right to a diversion rate of 1.82 cfs. Therefore, the combined diversion limitation limits the two pumps to their maximum historic diversion capacity ($1.82 \text{ cfs} + 5.82 \text{ cfs} = 7.64 \text{ cfs}$).

3. Well No. 3: SWSW of Section 10

a. Water Right No. 45-2689

The third well in the Cummins system is located in the SWSW of Section 10. The only pump that services the well in the SWSW of Section 10 has a maximum historic diversion capacity of 5.82 cfs. Because water right no. 45-2689 fully overlaps the place of use for water right no. 45-2583, it was necessary for the Department to craft the following combined diversion limitation:

Use of the rights listed below is limited to a total combined diversion rate of 7.64 cfs and to a total combined annual diversion volume of 1,976 af. Combined right nos.: 45-2583, 45-2689, and 45-10274.

Water right no. 45-10274 was developed as additional acres under the diversion rate developed for water right no. 45-2583 and was limited when combined with that water right to a diversion rate of 1.82 cfs. Therefore, the combined diversion limitation limits the two pumps to their maximum historic diversion capacity ($1.82 \text{ cfs} + 5.82 \text{ cfs} = 7.64 \text{ cfs}$).

4. Well No. 4: NWNW of Section 15

The final well in the Cummins system is located in the NWNW of Section 15, which provides water to water right nos. 45-7020, 45-7035, 45-7110, and 45-7374. As stated in the licensing examinations for those rights, and as verified during the February 18, 2004 site visit, the only pump that services the well in the NWNW of Section 15 is a single electric pump. The motor make (General Electric), size (450 horsepower), and serial number (EHJ503017) found during the February 18, 2004 site visit are identical to those recorded in the licensing examinations for each of the four above-mentioned water rights.

As also evidenced by the licensing examinations, the maximum historic diversion capacity of the well in the NWNW of Section 15 is 5.9 cfs. From the time of the first licensing examination in 1973 for water right no. 45-7020, until the time of the last licensing examination in 1979 for water right no. 45-7374, it was noted by the licensing examiners that the maximum diversion capacity for the well had decreased by .43 cfs.

The decreasing trend in the discharge capacity, as measured at the well in the NWNW of Section 15, is typical. This condition is the result of several variables, including decreasing ground water levels in the West Oakley Fan Critical Ground Water Area and mechanical wear and tear on the equipment. The Department has historically recognized that these factors have

decreased developed discharge capacity and have approved transfers to change or add diversion points without authorizing enlargement under the rights. Irrigators have also been able to maintain, replace or adjust equipment, or to increase well pump and motor equipment sizes to sustain their developed appropriations without the Department's approval. Since the equipment packages presently on the well in the NWNW of Section 15 are the same as when they were licensed, it is assumed that the equipment has at least been serviced at regular intervals to maintain energy efficiency and diversion rate capability.⁶ Therefore, despite the decrease in pumping capacity, the Department determined that a recommended diversion rate of 5.9 cfs was appropriate.

If the four above-mentioned water rights were examined individually, the rights could be interpreted to authorize an aggregate diversion rate of 22.64 cfs. However, given the fact that only one pump services the NWNW of Section 15, that no other wells have ever been developed, and that the only pump that exists has a maximum diversion capacity of 5.9 cfs, Cummins, or its predecessors, have never been able to divert and beneficially use more than 5.9 cfs. Therefore, it was necessary for the Department to craft the following combined use limitation to ensure that the four water rights that divert from the well in the NWNW of Section 15 do not exceed the maximum extent of developed beneficial use:

Use of this right with rights listed below is limited to a total combined diversion rate of 5.9 cfs and to a total combined annual diversion volume of 2879 af.
Combined right nos.: 45-7020, 45-7035, 45-7110, 45-7374.

A second condition on water right no. 45-7374, the most junior of the four water rights that divert from the well in the NWNW of Section 15, states that "use of this right with right no. 45-7110 is limited to a total combined diversion rate of 5.47 cfs." This combined diversion

⁶ Information has not been provided that would corroborate a significant increase in diversion rate over the original measured capacity as a result of pump and motor maintenance.

limitation was imposed by the Department at the time of licensing, and was carried over to the Department's recommendation.

Of the four rights that divert from the NWNW of Section 15, water right nos. 45-7110 and 45-7374 were the last rights to be developed. The combined limitation of 5.47 cfs further evidences the decreasing trend in discharge capacity at the well in the NWNW of Section 15 from a high of 5.90 cfs in 1973, to a low of 5.47 cfs in 1979. While it might be argued that the Department's failure to impose combined use limitations on water right nos. 45-7020 and 45-7035 should allow for the diversion of the aggregate quantity of those water rights (3.76 cfs + 5.79 cfs = 9.55 cfs), the maximum diversion capacity for the pump in the NWNW of Section 15, as documented in the licensing examination for water right 45-7020, is 5.90 cfs.

The fact that water right no. 45-7374 is the only of the four rights that divert from the NWNW of Section 15 to have been licensed with a combined diversion limitation does not foreclose the Department from recommending the other licensed rights with combined use limitations that reflect the maximum extent of historic beneficial use. If the Department were to allow the exploitation of silence in licenses, it would act contrary to the Idaho Constitution, Idaho Code, and Department rules, which mandate that water rights cannot exceed the extent of beneficial use.

5. Total Combined Diversion Limitation

In order to limit the Cummins system to the maximum extent of developed beneficial use, it was necessary for the Department to craft the following combined use limitation, which was inserted on the face of each of the seven water rights:

Use of this right with rights listed below is limited to a total combined diversion rate of 20.23 cfs and to a total combined annual diversion volume of 7,391 afy. Combined right nos.: 45-2583, 45-2689, 45-7020, 45-7035, 45-7110, 45-7238, and 45-7374.

This combined use limitation was developed based on the number of irrigated acres at time of exam, flow capacities of the four developed wells, and diversion volumes of the four wells based on developed flow capacities. The combined flow rate limitation on the recommendations was calculated as the sum of the maximum measured capacity for each of the four wells that service the seven water rights: $6.69 \text{ cfs}^7 + 1.82 \text{ cfs}^8 + 5.82 \text{ cfs}^9 + 5.9 \text{ cfs}^{10} = 20.23 \text{ cfs}$. This value, 20.23 cfs, represents the maximum extent of developed beneficial use under the seven water rights at any point in time.

The combined volume limitation of 7,391 afy was calculated by summing the recommended volumes for water right no. 45-7238 (2,536 afy), combined limitation for water right nos. 45-2583 and 45-2689 (1,976 afy), and the WCV for the well in NWNW of Section 15 for water right nos. 45-7020, 45-7035, 45-7110, and 45-7374 ($\text{WCV} = 2,879 \text{ afy} = 5.9 \text{ cfs} \times 488 \text{ af/cfs}$).

B. The Application for Transfer did not Approve the Cumulative Quantity of the Seven Licenses

Cummins' objection asserts that the Department's approval of Howard E. Conrad's 1985 Application for Transfer establishes Cummins' entitlement to the cumulative quantity of the seven licenses. However, the express purpose of the Application for Transfer was "To Change the *Point of Diversion* and/or the Place of Use." Emphasis added. As approved by the Department, the Application for Transfer consolidated the original points of diversion into a single system for irrigation. The fact that the Application for Transfer listed a quantity in a blank

⁷ Water right no. 45-7238, well located in the NENW of Section 9.

⁸ Water right no. 45-2583, well located in the SESE of Section 9.

⁹ Water right no. 45-2689, well located in the SWSW of Section 10.

¹⁰ Water right nos. 45-7020, 45-7035, 45-7110, and 45-7374, well located in the NWNW of Section 15.

line in paragraph C(1)(a), which was filled in by Howard E. Conrad, does not amount to Department approval of cumulative quantity because the transfer only pertained to changes in the points of diversion.

Furthermore, were the Department to recommend a quantity in excess of 20.23 cfs--the maximum pumping capacity of the four wells on Cummins' property, as well as the maximum extent of developed beneficial use under the seven licenses--it would act contrary to the Idaho Constitution, Idaho Code, and Department rules, which mandate that water rights cannot exceed the extent of beneficial use.

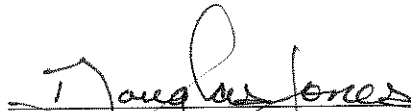
Finally, even though the stated purpose of the Application for Transfer was to "consolidat[e] points of diversion as to irrigate all of the ground by one common system[.]" the two proposed wells in the NESE of Section 9 were never fully developed and do not contribute to the capacity of the system. Neither pumps nor electric services were observed at the proposed well sites during the Department's February 18, 2004 site examination of the Cummins property. Even though the wells in the NESE of Section 9 could have been developed, all water users are under an obligation to complete diversion works within a reasonable amount of time after approval. More than twenty years have passed since the Application for Transfer was approved by the Department. Because the points of diversion in the NESE of Section 9 have not been developed, the Department cannot recommend what does not exist.

///The Remainder of this Page is Intentionally Left Blank///

V. CONCLUSION

The Department's recommendations for water right nos. 45-2583, 45-2689, 45-7020, 45-7035, 45-7110, 45-7238, and 45-7374 are based on historical evidence of beneficial use and reasonable conclusions. Therefore, the Department respectfully requests that these water rights, as described in the Director's Report, be recommended to the Snake River Basin Adjudication District Court for partial decree.

Submitted this 25 day of January, 2006



Douglas R. Jones
Senior Water Resources Agent

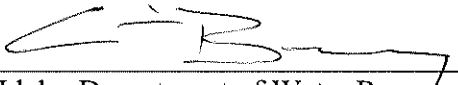
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following described document on the persons listed below by United States mail with the correct postage affixed thereto on this 25th day of January 2006.

Document Served: Supplemental Director's Report Regarding Subcase Nos.
45-2583, 45-2689, 45-7020, 45-7035, 45-7110, 45-7238,
and 45-7374

Persons Served: Kevin J. Beaton
Stoel Rives
101 S. Capitol Blvd, Ste 1900
Boise, Idaho 83702-5958

Daniel Cummins
Cummins Farm, Inc.
P.O. Box 30
Murtaugh, Idaho 83344-0033


Idaho Department of Water Resources

Attachment A

7857

State of Idaho License and Certificate of Water Right

Water License No. G-27993 Amount 1.82 c.f.s.
Water District No. _____ Priority June 19, 1959

THIS IS TO CERTIFY that MAXINE CALL GARNER
of Burley, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated June 19, 19 59; that Permit No. G-27993
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
1.82 second feet, was issued thereunder on June 25, 19 64, showing that said works
were completed on the 16th day of April, 19 62; and that on the 16th
day of April, 19 62,

MAXINE CALL GARNER

of Burley, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well
, a tributary of subterranean flow, for the purpose of irrigation
, under Use Permit No. G-27993 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
12 of Licenses at page 7857, on the 25 day of June, 19 64;
The right hereby confirmed dates from June 19, 19 59;

The Point of Diversion is located
in the SE 1/4 SE 1/4, Sec. 9, Tp. 11 S, R. 21 E, B. M. Cassia County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 1.82 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
11 S.	21 E.	9	SE 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NW 1/4	40	20
			N 1/2 SE 1/4	80	80
			SE 1/4 SE 1/4	40	40
			SW 1/4 SE 1/4	40	25
			Total number of acres to be irrigated:		245

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
25th day of June, 19 64.

(SEAL)

RALPH W. THOMAS
Deputy State Reclamation Engineer.

45 2583

Attachment B

45-2689 & 30884
Assigned to *Idaho State Correl*
Neuenschwander

APPLICATION FOR PERMIT To Appropriate the Subterranean Waters of The State of Idaho

Application No. G- 35879
Permit No. G- 30884
District No.

Assigned to *Thorne*
Burley

1. Name of Applicant: *C. LEROY GARNER*
Postoffice address: *R#2, Burley* County: *Cassia* State: *Idaho*
2. Quantity of water claimed: *Six (6) second feet*
(a) Rate of withdrawal in cubic feet per second *Miners' inches* or Idaho *or gallons per minute*
(b) Annual withdrawal in acre feet per annum
3. Source of water supply: *Subterranean well*
4. Location of point of diversion or well is in the *SW 1/4 of the SW 1/4 of Section 10*
Twp. 11 S , Rge. 21 E. , B.M., County of Cassia
5. Water is to be used for: *Irrigation*
6. If for municipal, industrial or recreational purposes, give:
(a) Point of use of water is in the *1/4 of the 1/4 of Section , Twp.*
Rge. , B.M.
(b) Waste water or sewage effluent is to be returned to
at a point in the *1/4 of the 1/4 of Section , Twp. , Rge. , B.M.*
7. Kind of works: *Subterranean well, pump, ditches*
8. Estimated cost of works: *\$20,000.00*
9. (a) Is reservoir to be used?
(b) Capacity of reservoir:
10. The time required for the completion of such work and complete application of the water to the proposed use is *5* years.
11. If applicant is a corporation, give:
I. (a) Date and place of incorporation:
(b) Amount of capital stock: \$ (c) Amount paid in: \$
(d) Names and addresses of directors:
II. The financial resources of the applicant are (a) Cash on hand: \$
(b) Treasury stock: (c) Bonds to be issued:
(d) Other resources:
12. The land to be irrigated is described in the following tabulation:
13. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: *Some water is available to the land under Permit No. G-27993 but the water under G-27993 is not sufficient to irrigate the land and this to supplement water on part of the lands shown under Permit G-27993*
(a) (cubic feet per second, ~~inches or gallons per minute~~) of the water herein applied for is to be supplemental to the existing water rights.
(b) (cubic feet per second, ~~inches or gallons per minute~~) is for new lands.

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

By _____ Agent.

Corrected application received:

The number of this permit is G— 30884

Witness my hand this 14th day of January, 1968, s/ CARL E. TAPPAN, Assistant
STATE RECLAMATION ENGINEER.

Countersigned:

STATE OF IDAHO

(SEAL)

By s/ ARNOLD WILLIAMS
Secretary of State.

By s/ ROBERT E. SMYLLIE
Governor

12.

Twp.	Range	Sec.	NE¼ NW¼SW¼SE¼	NW¼ NE¼SW¼SE¼	SW¼ NE¼NW¼SW¼SE¼	SE¼ NE¼NW¼SW¼SE¼	Totals
11 S	21 E	109		x x	x x x x	x x x x	160 240
						TOTAL	400
<u>A S S I G N M E N T</u>							
For value received, I hereby assign 120 inches my right, title, and interest in and to Permit to Appropriation No. G30884 to MAXINE CALL GARNER of Burley, Cassia County, Idaho.							
/s/ C. LeROY GARNER Permit Holder /s/ GLADYS C. GARNER Wife of Permit Holder							
STATE OF IDAHO) : County of) ss							
On this 14th day of June, 1963, before me, a Notary Public for the State of Idaho, residing at Burley, Idaho personally appeared C. LeRoy Garner and Gladys C. Garner known to me to be the persons whose names are subscribed to the within instrument, and duly acknowledged to me that they executed the same.							
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, the day and year in this certificate first above written.							
/s/ Norman H. Nielson Notary Public Residing at Burley, Idaho							
My commission expires May 12, 1966							

*Southeast Quarter, the South Half of the North Half of Section 9, Township 11 South, Range 21 E.B.M.

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, NO. G-30884

Comes now C. LeROY GARNER, and represents to the State Reclamation Engineer of the State of Idaho. That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. G-30884, and requests that the list of lands to be irrigated, as described in said permit, be changed to include as follows:

The Southeast Quarter of Section 9 and that portion of the South Half of the North Half of Section 9 not already included in said Permit No. G-30884, making a total of approximately 180 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Burley, Idaho, this 6 day of June, 1963
C. LeRoy Garner
/s/ By
Norman H. Nielson, His Attorney

Date of receipt at Office of Department of Reclamation June 7, 1963

APPROVAL OF STATE RECLAMATION ENGINEER

I, Ralph W. Thomas, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to appropriate the Public Waters of the State of Idaho, No. G-30884. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

/s/ RALPH W. THOMAS
Deputy State Reclamation Engineer

Recorded: June 10, 1963

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, No. G-30884
Land List

Comes now C. LEROY GARNER and represents to the State Reclamation Engineer of the State of Idaho.

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. G-30884, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

NW $\frac{1}{4}$, NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Sec. 9, Township 11 So., Range 21, E. B. M.; the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 8, Township 11 South, Range 21 E., B.M., minus the following described property, to-wit: That part of the NE $\frac{1}{4}$ of Section 8, Township 11 South, Range 21, E. B. M., which lies north of U. S. Highway 30 and is more particularly described as follows: Beginning at the Northwest corner of the Northeast Quarter of Section 8, Township 11 South, Range 21 E. B. M.; thence South 1,790 feet more or less to the center line of U. S. Highway 30 South; thence northeasterly along said U. S. Highway 30 South to the Northeast corner of said Section 8; thence West 2,640 feet more or less to the point of beginning; which said tract contains 54 acres more or less, including the right of way for U. S. Highway 30 South and the County Road, making a total of 580 acres.

That an additional amount of water is not asked for and that the rights of others will not be adversely affected by such change.

Signed at Burley, Idaho, this 14th day of January, 1964.

C. LeROY GARNER
By Norman H. Nielson

Date of Receipt at office of Department of Reclamation January 21, 1964

APPROVAL OF STATE RECLAMATION ENGINEER

I, RALPH W. THOMAS, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to appropriate the Public Waters of the State of Idaho, No. G-30884. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

s. RALPH W. THOMAS
Deputy State Reclamation Engineer

A S S I G N M E N T ✓

✓ For value received, I hereby assign 120" of my right, title and interest in and to Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884 to Mary J. Conrad of Murtaugh, Idaho.

/s/ Maxine Call Garner
Permit Holder
/s/ Leland J. Garner
Husband of Permit Holder

STATE OF IDAHO)
) ss
County of)

On this 7 day of May, 1965, before me, a Notary Public for the State of Idaho, residing at Burley, Idaho personally appeared Maxine Call Garner and Leland J. Garner, known to me to be the persons whose names are subscribed to the within instrument and duly acknowledged to me that they executed the same.

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

/s/ Norman H. Nielson
Notary Public Residing at Burley, Idaho

My commission expires: May 12, 1966

(SEAL)

A S S I G N M E N T ✓

✓ For value received, I hereby assign 180 inches of my right, title and interest in and to Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884 to MARY J. CONRAD of Murtaugh, Idaho.

/s/ C. LeRoy Garner
Permit Holder
/s/ Gladys Garner
Wife of Permit Holder

STATE OF IDAHO)
) ss.
County of Cassia)

On this 25 day of June, 1965, before me, a Notary Public for the State of Idaho, residing at Burley, Idaho, personally appeared C. LE ROY GARNER, known to me to be the person whose name is subscribed to the within instrument and duly acknowledged to me that they executed the same.

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

/s/ Norman H. Nielson
Notary Public in and for Idaho
Residing at Burley, Idaho

My commission expires: May 12, 1966

STATE OF IDAHO)
) ss.
County of Cassia)

On this 13 day of July, in the year 1965, before me the undersigned, a Notary Public in and for said State, personally appeared Gladys Garner known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

/s/ Norman H. Nielson
Notary Public for Idaho, residing at Burley, Idaho

My commission expires: May 12, 1966

(SEAL)

Application for Amendment
LAND LIST
Permit No. G-30884

Comes now Mary J. Conrad, and represents to the STATE RECLAMATION ENGINEER of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 9, T. 11 S., R. 21 E., B.M.; NW $\frac{1}{4}$, Sec. 17; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18; SW $\frac{1}{4}$ (South of U.S. Hwy 30), Sec. 8, T. 11 S., R. 21 E., B.M., making a total of 590 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Boise, Idaho this 16th day of December, 1965

/s/ Mary J. Conrad

Date of receipt at office of Department of Reclamation: December 16, 1965

APPROVAL OF STATE RECLAMATION ENGINEER

I, Ralph W. Thomas, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

/s/ RALPH W. THOMAS
Deputy State Reclamation Engineer

Recorded: December 17, 1965

AMENDMENT TO LAND LIST

Comes now Mary J. Conrad and represents to the State Reclamation Engineer of the State of Idaho, That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884, and requests that the list of lands to be irrigated, as described in said Permit, be changed to read as follows: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 8, N $\frac{1}{2}$, SE $\frac{1}{4}$, Section 9, T 11 S., R 21 E., B.M., making a total of 494 acres. That an additional amount of water is not asked for and that the rights of others will not be affected by such change.

Signed at Boise, this 16th day of January, 1967.

/s/ MARY J. CONRAD

Date of receipt at office of Department of Reclamation: January 16, 1967

APPROVAL OF STATE RECLAMATION ENGINEER

I, R. Keith Higginson, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. G-30884. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said permit application is approved only insofar as the rights of others will not be affected thereby.

/s/ R. KEITH HIGGINSON

Permit No. G-30884
CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that C. LEROY GARNER -Assignee MARY J. CONRAD of Burley, County of Cassia, and State of Idaho, the holder of Permit No. G-30884, issued upon Application No. G-38879 bearing date of priority of November 9, 1962, authorizing the diversion of 6.0 second feet of waters of a well, County of Cassia, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 5.82 second feet of the waters of a well, tributary of subterranean flow; that the point of diversion of said waters is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10, T. 11 S., R. 21 E., B.M. and that the lands proposed to be irrigated by the use or place of use of said water are described as follows, to-wit:

N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 9; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 11 S., R. 21 E., B.M.

Proof of Completion of Works: February 25, 1964.

Witness my hand this 22nd day of March, A. D. 1967.

s/R. KEITH HIGGINSON
State Reclamation Engineer

LICENSE ISSUED FOR 5.82 SEC. FT.
LICENSE PAG NO. 8723

Attachment C

8723+
H.P.

State of Idaho

License and Certificate of Water Right

Water License No. G-30884 Amount 5.82 c.f.s.
Water District No. Priority November 9, 1962

THIS IS TO CERTIFY that C. LEROY GARNER -Assignee MARY J. CONRAD
of Burley, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated January 14, 1963; that Permit No. G-30884
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
5.82 second feet, was issued thereunder on March 22, 1967, showing that said works
were completed on the 25th day of February, 1964; and that on the 25th
day of February, 1964, C. LEROY GARNER -Assignee MARY J. CONRAD

of Burley, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well,
a tributary of subterranean flow, for the purpose of irrigation
under Use Permit No. G-30884 of the Department of Reclamation,
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
14 of Licenses at page 8723, on the 22 day of March, 1967;
The right hereby confirmed dates from November 9, 1962;
The Point of Diversion is located

in the SW 1/4 SW 1/4, Sec. 10, Tp. 11 S., R. 21 E., B. M., Cassia County.
That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 5.82 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
11 S.	21 E.	8 9	NE 1/4 NE 1/4	40	17
			NE 1/4	160	160
			NE 1/4 NW 1/4	40	37
			NW 1/4 NW 1/4	40	40
			S 1/2 NW 1/4	80	80
			SE 1/4	160	160
			Total number of acres to be irrigated:		494

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
22nd day of March, 1967.

(SEAL) s/ R. Keith Higginson
State Reclamation Engineer.

45 2689

Attachment D

State of Idaho
Department of Water Administration

WATER RIGHT LICENSE

License of Water Right No. 45-7020 Priority April 6, 1967 Amount 3.76 cfs

THIS IS TO CERTIFY, that HOWARD E. CONRAD
of Murtaugh, Idaho, has complied with the terms and conditions of Permit
No. 45-7020 issued pursuant to Application for Permit dated April 6, 1967,
and has submitted proof to the Department of Water Administration on November 18, 1971,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 5.90 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use &
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Nov. 15</u>	at <u>3.76</u> cfs and	<u>752</u> acre feet or
	from _____ to _____	at _____ cfs and	<u>4.0</u> af per acre
	from _____ to _____	at _____ cfs and	
(both dates inclusive)			

Subject, however, to the condition that no more than 3.76 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
752 acre feet per year, said waters to be diverted within the NW 1/4 NW 1/4 of Sec. 15,
Twp. 11 S, Rge. 21 E, B.M. in the County of Cassia

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11 S	21 E	7															10	30	40
		8							10	38	20	40	40						148

Total number of acres irrigated 188

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 5 day of
March, 19 74.

Director

45-7020

Attachment E

WATER RIGHT LICENSE

MICROFILMED

Attachment F

WATER RIGHT LICENSE

of Murtaugh, Idaho, has complied with the terms and conditions of Permit No. 45-7110 issued pursuant to Application for Permit dated September 18, 1972, and has submitted proof to the Department of Water Resources on September 9, 1977, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 5.48 cfs of water from a groundwater source, tributary to _____, and that the permit holder has applied to a beneficial use and established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from March 1 to November 1	at 3.98 cfs and	1240 acre feet
Stockwater	from January 1 to December 31	at 0.02 cfs and	8.04 acre feet
	from to at cfs and		

(both dates inclusive)

Subject, however, to the condition that no more than 4.0 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 1248.04 acre feet per year, said waters to be diverted within the NW¹/₄ Sec. 15, Twp. 11S., Rge. 21E., B. M. _____ in the County of Cassia

Description and location of place of use:

[illegible]

Total number of acres irrigated 310

SCANNED
SEP 12 2001

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 26 day of April, 19 79.

Deputy Director

Attachment G

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that Howard Conrad

Beneficial Use Period of Use Rate of Diversion Annual Volume

Irrigation from March 15 to November 15 at 6.4 cfs and 2536.0 acre feet

_____ from _____ at _____ cfs and _____

_____ from _____ at _____ cfs and _____

(both dates inclusive)

Subject, however, to the condition that no more than 6.4 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confining is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 2536.0 acre feet per year, said waters to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 9 Twp. 11S, Rge. 21E in the County of Cassia

Description and location of place of use:

Twp.	Range	Section																Totals
		NE1/4	NE1/4	NE1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
11S	21E	18	40	40	40	40	39	38	39	40	40	39	39	40	40	40	40	634

Total number of acres irrigated 634

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29th day of April, 1982

SCANNED

SEP 13 2001

Acting for the Director

J.J. DeT

Attachment H

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 45-7374 Priority April 11, 1979 Amount 3.10 cfs

THIS IS TO CERTIFY, that CONRAD LAND & LIVESTOCK
of Murtaugh, Idaho, has complied with the terms and conditions of Permit
No. 45-7374 issued pursuant to Application for Permit dated April 11, 1979,
and has submitted proof to the Department of Water Resources on August 8, 1979,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 5.47 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>March 1</u> to <u>November 1</u>	<u>3.10</u> cfs and	<u>620</u> acre feet
	from _____ to _____	_____ cfs and	_____
	from _____ to _____	_____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 3.10 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
620 acre feet per year, said waters to be diverted within the NW 1/4, Sec. 15, Twp. 11S,
Rce. 21E, B.M. in the County of Cassia

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4	NW 1/4	SW 1/4	SE 1/4	Totals
11S	21E	10	40	40	36	39	155

CONDITION:

Total number of acres irrigated 155

The maximum rate of diversion under this license when
used in combination with License No. 45-7110 shall not
exceed 5.47 cfs.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of
January, 19 80.

Director

MICROFILMED

Attachment I

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)

b. License No. 45-2583 Issued by the Idaho Department of Water Resources

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

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired _____

3. Source of water groundwater tributary to _____4. Date of priority 6/19/1959

5. Water is used for the following purposes:

amount 1.82 for irrigation purposes from _____ to _____ not given on license
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 1.82 cubic feet per secondb. _____ &/or
acre feet per annum7. Location of original point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 9Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11S	21E	9			40	40				20					40	40	25	40	245

Total number of acres to be irrigated 245

9. Describe any other water rights used for the same purpose as described above _____

MICROFILMED

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ If yes, describe in Item D, REMARKS.

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)

b. License No. 45-2689 Issued by the Idaho Department of Water Resources

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

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired _____

3. Source of water groundwater tributary to _____4. Date of priority 11/9/1962

5. Water is used for the following purposes:

Not given on license

amount 5.82 for irrigation purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)6. Total amount of water under right: a. 5.82 cubic feet per secondb. _____ &/or
acre feet per annum7. Location of original point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 10Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	21E	9	40	40	40	40	37	40	40	40					40	40	40	40	477
		8	17																17

Total number of acres to be irrigated 494

9. Describe any other water rights used for the same purpose as described above _____

MICROFILMED

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? no
If yes, describe in Item D, REMARKS.

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. _____ Decreed to _____ (Name)

In case of _____ vs _____

dated in _____ in _____ county of _____ (Name of court)

b. License No. 45-7020 issued by the Idaho Department of Water Resources

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

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired *

3. Source of water groundwater tributary to _____4. Date of priority 4/6/1967

5. Water is used for the following purposes:

amount 3.76 for irrigation purposes from 4/1 to 11/15

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____ (month/day — both dates inclusive)

6. Total amount of water under right: a. 3.76 cubic feet per secondb. _____ &/or
acre feet per annum7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE%				NW%				SW%				SE%				TOTALS
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	
11S	21E	8								10	38	20	40	40					148
		7															10	30	40

Total number of acres to be irrigated 188

9. Describe any other water rights used for the same purpose as described above _____

MICROFILMED

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ If yes, describe in item D, REMARKS.

Transfer No. 3205

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

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

APPROVED

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344**A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**

- a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)
- b. License No. 45-7035 issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired *3. Source of water groundwater tributary to _____4. Date of priority 2-28-1969**5. Water is used for the following purposes:**

amount 5.79 for Irrigation purposes from 3/15 to 11/15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 5.79 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15
Township 11S Range 21E, B.M. in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11S	21E	16	40	40	40	40									40	40	40	40	320

Total number of acres to be irrigated 320**9. Describe any other water rights used for the same purpose as described above**

MICROFILMED

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ if yes, describe in item D, REMARKS.

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)

b. License No. 45-7110 issued by the Idaho Department of Water Resources

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

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired : _____

3. Source of water groundwater tributary to _____4. Date of priority 9-18-1972

5. Water is used for the following purposes:

amount 3.98 for irrigation purposes from 3/1 to 11/1
amount .02 for stockwater purposes from 1/1 to 12/31
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 4.0 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15
Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11S	21E	15					39	38	39	39	39	39	39	39					310

Total number of acres to be irrigated 310

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ If yes, describe in item D, REMARKS.

MICROFILMED

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)
- b. License No. 45-7238 Issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired _____

3. Source of water groundwater tributary to _____4. Date of priority 5/2/1975

5. Water is used for the following purposes:

amount 6.4 for irrigation purposes from 3/15 to 11/15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 6.4 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 9
Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11S	21E	18	40	40	40	40	39	38	39	40	40	39	39	40	40	40	40	40	634

Total number of acres to be irrigated 634

9. Describe any other water rights used for the same purpose as described above _____

MICROFILMED

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? no If yes, describe in item D, REMARKS.

Transfer No. _____

Water Right No. _____

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

Name of applicant Howard E. Conrad Phone 432-5444Post Office address Rt. 1 Murtaugh, Idaho 83344**A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**

- a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)
- b. License No. 45-7374 Issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired : _____3. Source of water groundwater tributary to _____4. Date of priority 4-11-1979**5. Water is used for the following purposes:**

amount 3.10 for irrigation purposes from 3/1 to 11/1
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 3.10 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15
Township 11S Range 21E, B.M., in Cassia County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11S	21E	10									40	40	36	39					155

SCANNED

JUL 27 2001

Total number of acres to be irrigated 155**9. Describe any other water rights used for the same purpose as described above****MICROFILMED****10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ If yes, describe in item D, REMARKS.**

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ 1/4 _____ 1/4, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. Place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres to be irrigated _____

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

1. General Information

- a. Amount of water to be diverted 29.06 - C.F.S. c.f.s. &/or _____ acre feet
- b. Description of diverting works WELLS, MOTORS, AND PUMPS
- c. Describe the reasons for the proposed changes CONSOLIDATING POINTS OF DIVERSIONS AS TO IRRIGATE ALL OF THE GROUND BY ONE COMMON SYSTEM.

2. Change in point of diversion

Point of diversion 2pts-NE 1/4 SE 1/4 Section 9 Township 11S
Range 21 E, B.M., Cassia County
Additional points (sese, sec 9, ssws, sec 10, nwnw, sec 15 (nenw, sec 9) 11s 21e

3. Change in place of use NO CHANGE

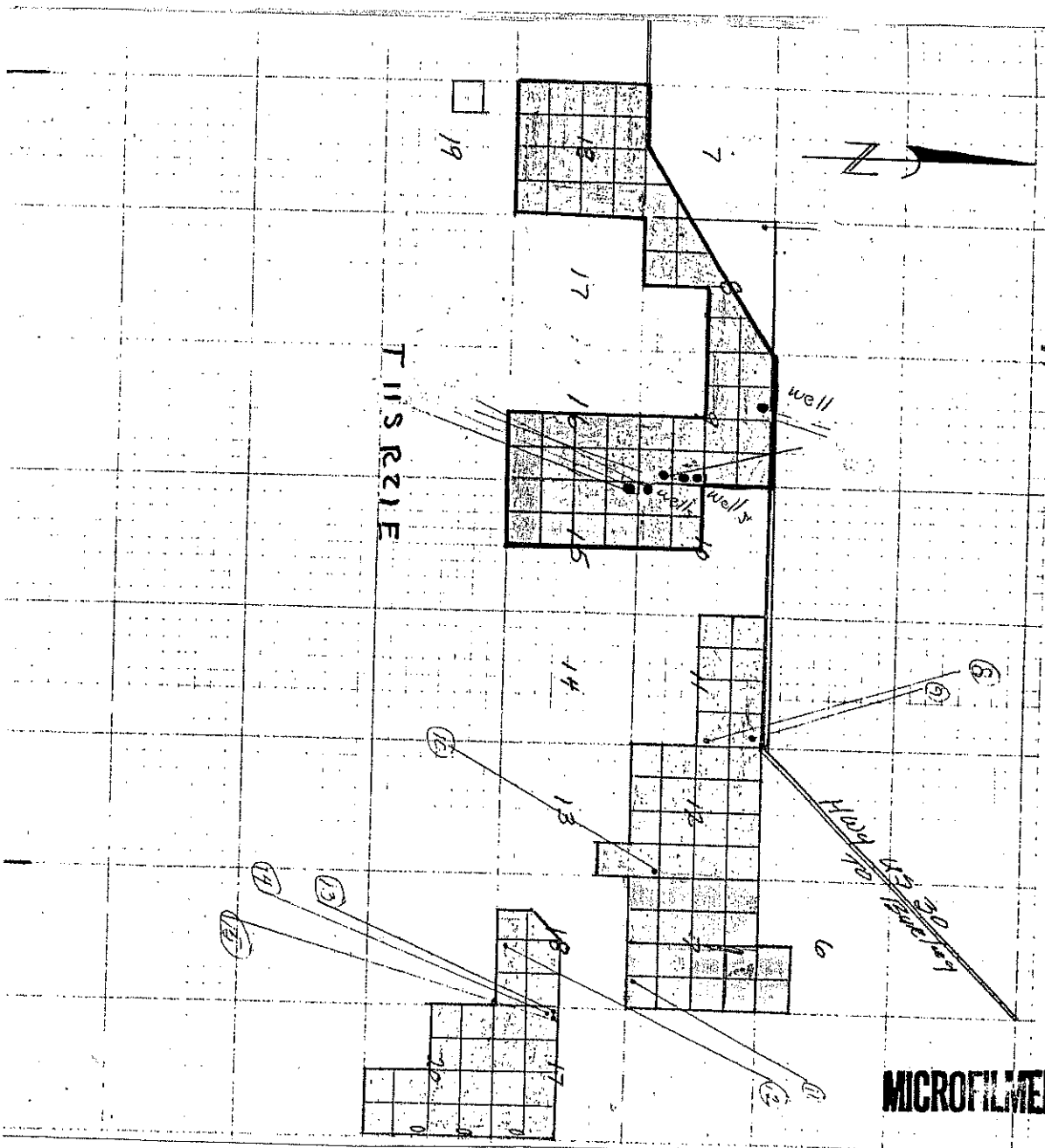
- a. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed change.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

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

[illegible]

Total number of acres to be irrigated _____

4. Describe any other water rights used for the same purpose as described above. _____
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



D. 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 willfull misrepresentations made in this application may result in voiding its approval.

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 27 day of June, 1985

[Signature]
(Notary Public)

My commission expires 6-6

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

45-2583/2689/7020/

This is to certify that I have examined Application for Transfer of Water Rights No. 7035/7110/7238/7374

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

Witness my hand this 21st day of October, 1985

[Signature]
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 6-27-1985 Protest filed by None

Prelim. check by ADM Fee 50.00 #36642

Received by [Signature] Date 6-27-1985 # 36642

Published in Sancti edo press Copies of protest forwarded by _____

Pub. dates 8/29 + 9/5/85 Hearing held by _____ Date _____

Watermaster recommendation requested on NA Recommended for approval denial

_____ rec'd. _____ by ADM Jim

MICROFILMED

Figure 1

IDAHO DEPARTMENT OF WATER RESOURCES



Cummins Farms Ground Water Licenses

- Section Lines
- Quarter/Quarter Lines
- Place of Use
- Point(s) of Diversion



Figure 1

GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 and/or 1988 NAIP
DATA ENTRY: 1/4/2006
DOUGLAS JONES

Figure 2

45-2583, 45-2689 & 45-10274

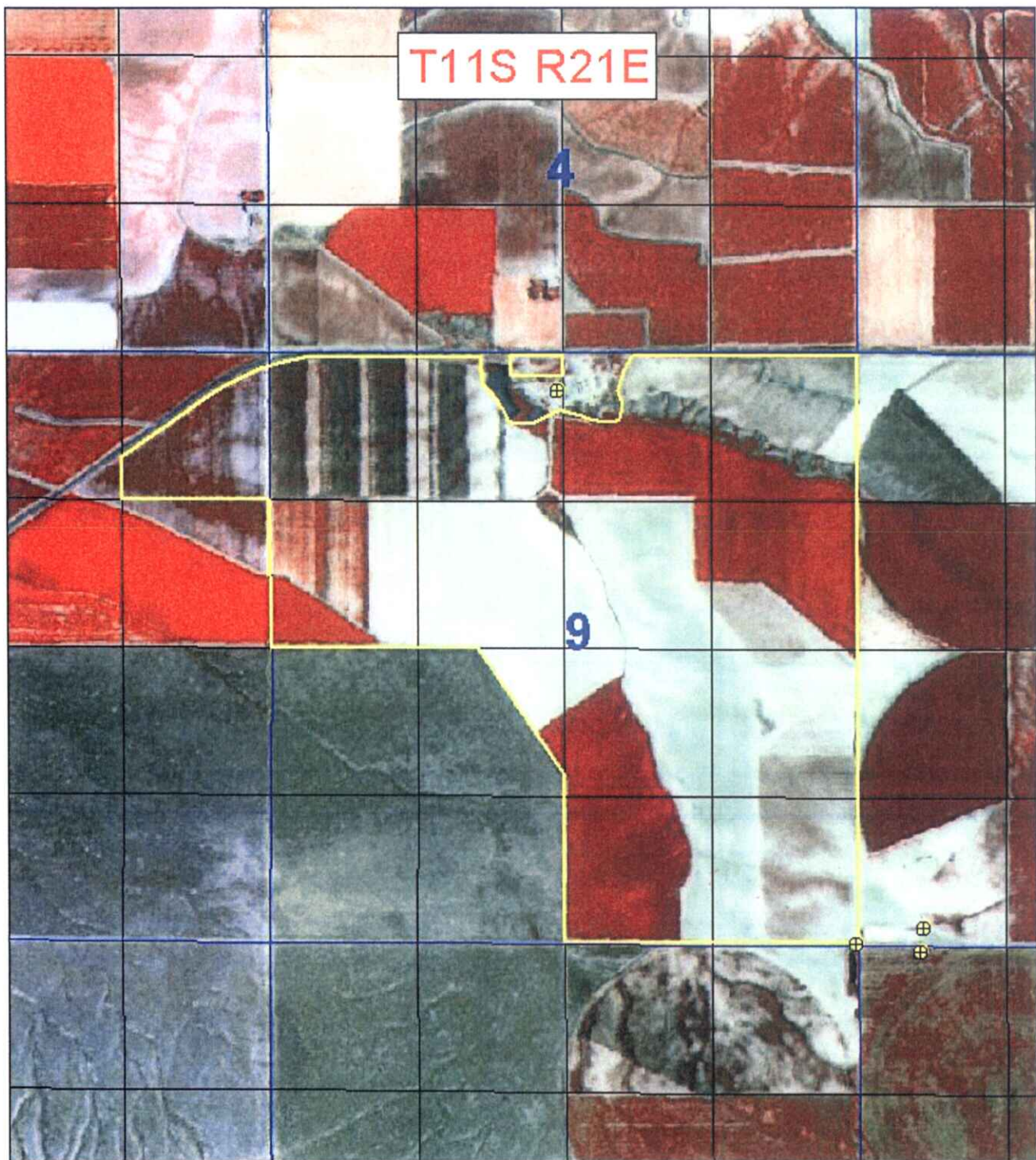


Figure 3

45-7020



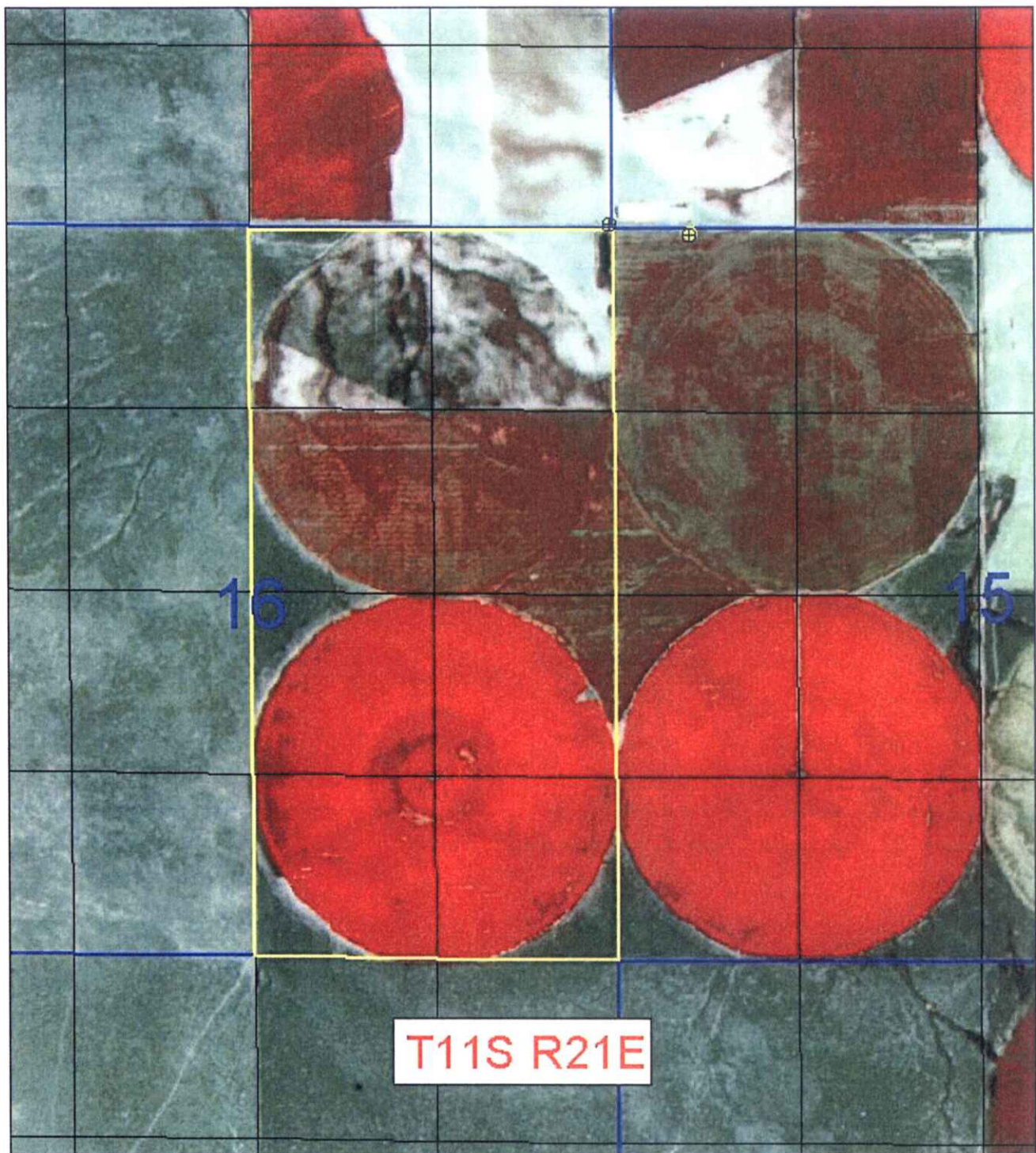
-  Section Lines
-  Quarter/Quarter Lines
-  Place of Use
-  Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 and/or 1988 NAIP
DATA ENTRY: 3/2004
DOUGLAS JONES

Figure 4

45-7035



1320 0 1320 Feet

-  Section Lines
-  Quarter/Quarter Lines
-  Place of Use
-  Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 and/or 1988 NAPP
DATA ENTRY: 3/2004
DOUGLAS JONES

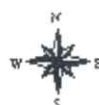
Figure 5

45-7238



2640 0 2640 Feet

- Section Lines
- Quarter/Quarter Lines
- Place of Use
- Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
 PHOTOGRAPHY: 1987 and/or 1988 NAPP
 DATA ENTRY: 3/2004
 DOUGLAS JONES

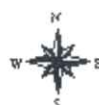
Figure 6

45-7238



2640 0 2640 Feet

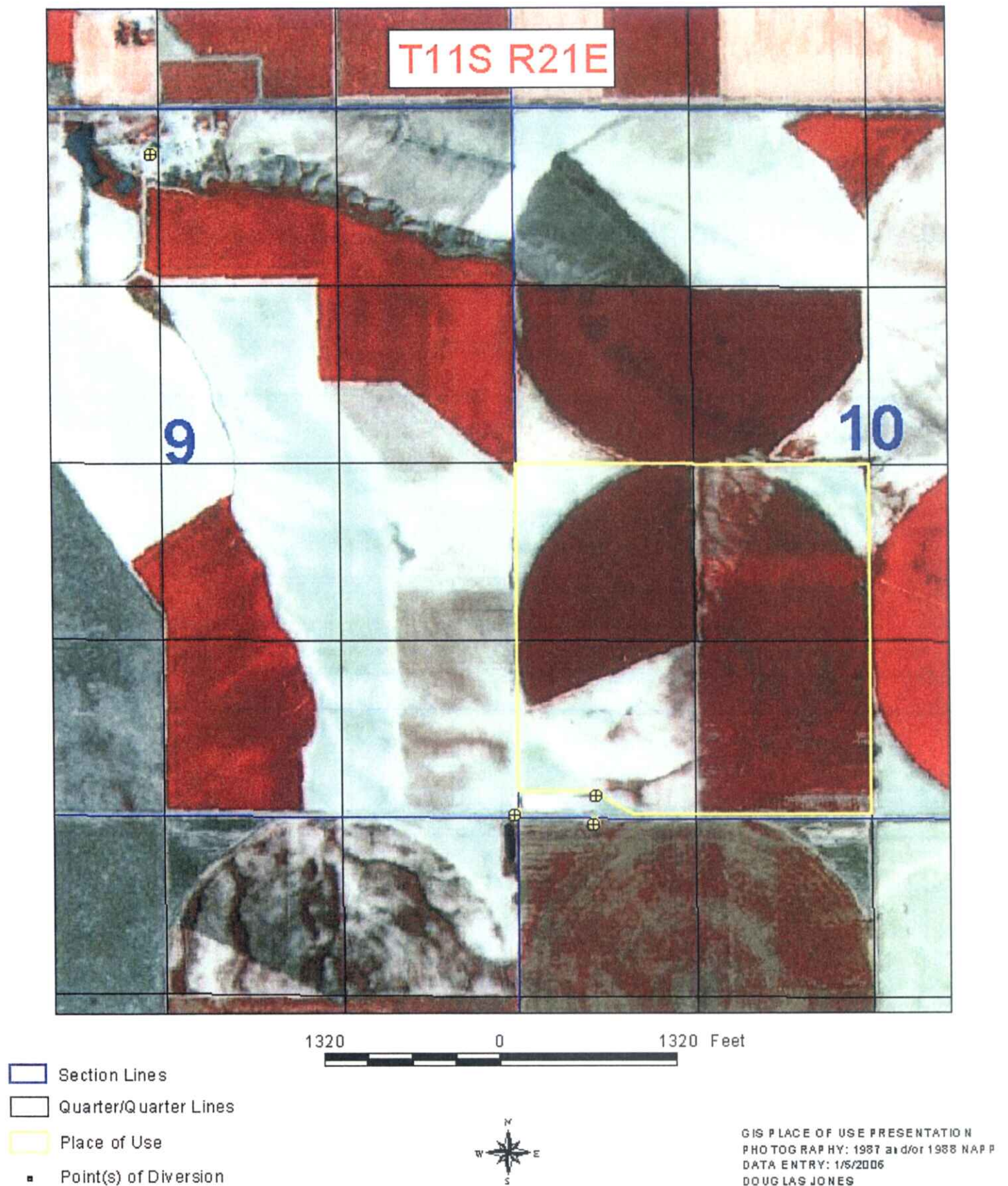
- Section Lines
- Quarter/Quarter Lines
- Place of Use
- Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
 PHOTOGRAPHY: 1987 and/or 1988 NAPP
 DATA ENTRY: 3/2004
 DOUGLAS JONES

Figure 7

45-7374



Table

TABLE 1

Well Location/ Water Right Nos.	Priority	Maximum Pump Capacity (cfs)	Licensed Rate/Volume	Licensed Acres	Recommended Rate/Volume	Recommended Acres
NENW Sec. 9		6.69				
45-7238	5/2/1975		6.4/2,536	634	6.4/2,536	634
SESE Sec. 9		1.82				
45-2583	6/19/1959		1.82	245^^	1.82/888	245^^
SWSW Sec. 10		5.82				
45-2689	11/9/1962		5.82	494	5.82/1,976	494
NWNW Sec. 15		5.90*				
45-7020	4/6/1967		3.76/752	188	3.52/703.2	175.8
45-7035	2/28/1969		5.79/1,280^	320	5.79/1,280	320
45-7110	9/18/1972		4.00/1,248^	310	4.00/1,248	310
45-7374	4/11/1974		3.10/620^	155	3.10/620	155
Total		20.23	30.69	2,101	20.23/7,391**	2,088.80

* Four water rights serviced by pump (450 horsepower General Electric) in the NWNW of Section 15. Maximum pump capacity of 5.90 cfs was documented in 1973.

^ Same 450 horsepower General Electric pump and decreasing pump capacity as documented in licensing examinations for water right nos. 45-7035 (5.79 cfs in 1974), 45-7110 (5.48 cfs in 1978), and 45-7374 (5.47 cfs in 1979).

^^ Acres fully contained in land under 45-2689, not included in total.

** Recommendation is based upon historic pumping capacity of the four wells in the Cummins system and maximum extent of beneficial use.