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DEPARTMENT OF
WATER RESOURCES

COPY

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

In Re SRBA

Case No. 35976

A. Subcase 22-683A

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Crystal Springs Land & Cattle, Co., Inc.

Address: 339E. 600 S. #1306

Salt Lake City, UT 84111

Daytime Phone: (801) 694-2620

Name & Address of Attorney, if any:

Robert L. Harris

Holden, Kidwell, Hahn & Crapo, PLLC

PO Box 50130

Idaho Falls, ID 83405

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

Name: Gary W. Grandy and LaVon Grandy

Address: 1076 S. 100 W.

Victor, ID 83455

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

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 1.75 cfs
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Points of Diversion**
Should be: Should also include a POD in NENWSW of 3N, 45E, Section 26.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: 75.4 acres, See attached Final Memorandum Decision and Order, page 6, which sets forth the place of use. See also the water right report for 22-683B, which removes 4 acres from the listed 79.4 acre place of use specified in the Memorandum Decision, for a total of 75.4 acres.

10. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): See attached documents. Crystal Springs Land & Cattle Co., Inc. recently purchased the property to which the above water right is appurtenant.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Bonanza)

Robert L. Harris, duly sworn, upon oath, deposes and says:

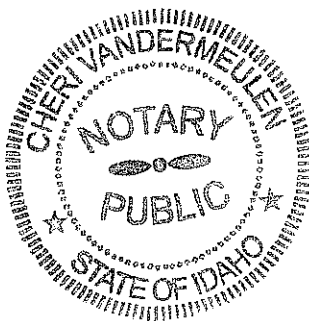
That I am the party/claimant filing this objection, as defined by I.C. §§42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Robert L. Harris

Attorney signing in representative capacity

Subscribed and sworn to before me on: July 24, 2007



Cheri Vandermeulen
Notary Public for Idaho
Residing at: Idaho Falls
My Commission Expires: July 7, 2009

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I hereby certify that on July 24, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

Name: Gary W. Grandy and LaVon Grandy

Address: 1076 S. 100 W.

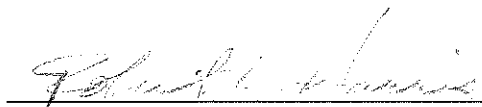
Victor, ID 83455

3. Copies to:

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

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

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on
Objector's behalf

G:\WPDATA\RLH\13812 Crystal Springs\Objection.22-683A.wpd

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
	)	
TRANSFER OF DECREE NO. 22-00683	)	
	)	FINAL MEMORANDUM DECISION
Source: Pole Creek	)	AND ORDER
County: Teton	)	
	)	

Following a hearing of protests against application for transfer of decreed right no. 22-00683, and issuance of a Proposed Decision, Gary W. Grandy and Dick Gebhard (applicants) filed exceptions to the Proposed Decision. The applicants took exception to the Department's failure to address a component of the transfer seeking diversion of 0.05 cfs for a recreational pond. After review of the file, I have determined that the exception is legitimate, and the following Findings of Fact and Conclusions of Law address and authorize the recreational use:

FINDINGS OF FACT

1. On January 5, 1989, Gary Grandy and/or Dick Gebhard applied to the Department of Water Resources for transfer of a point of diversion of a decreed water right numbered 22-00683. The application sought to add a diversion on Pole Creek upstream from the original point of diversion at a legal description listed as the NE1/4NW1/4SW1/4, Section 26, Township 3 North, Range 45 East. This proposed point of diversion is located on ground administered by the United States Forest Service (USFS). The original place of use for this decree would remain unchanged. The application was amended after the conference of September 7,

1989, to specify that only 0.33 cubic feet per second of the 2.0 cfs right would be diverted from the new point of diversion during a period of use from July 1, to August 31 of each year. The description of the water source was also amended to include a spring tributary to Pole Creek. The amendment also proposed diversion of 0.05 cfs from October 1 through May 1 for recreational purposes. The water will be used to maintain levels in a recreational pond.

2. A protest against approval of the application for transfer was received from J.S. Tixier, Regional Forester for the USFS.

The protestant raised objections to the addition of a point of diversion by alleging that:

a. The new point of diversion would be a mile inside the boundary of the Targhee National Forest.

b. The new diversion would injure riparian habitat that the Forest Service is responsible to protect under the Multiple-Use Sustained-Yield Act.

3. A conference was held September 7, 1989, in Driggs, Idaho. Both parties agreed to review an amended form of the application for transfer. Both applicant and protestant signed a stipulation for entry of proposed decision without a hearing. The amended application was reviewed by USFS personnel and the protest was left in place.

4. The stream ceases to flow at the present point of diversion beginning in the latter part of July or early August, and remains dry for the remainder of the irrigation season. The applicant submitted information showing that the stream did not dry up in 1930.

5. The stream at the proposed new point of diversion has been measured in August by USFS personnel to still have a flow of approximately 0.33 cubic feet per second.

6. The applicant does not intend to divert a total of more than the original 2.00 cubic feet per second. The applicant will limit diversion from the upper point of diversion to 0.33 cubic feet per second from July 1 to August 31 of each season.

7. The USFS has not recorded water rights for use in the area of the application but protests on the basis of its management responsibility under the National Environmental Policy Act (NEPA). In addition, the applicants lack an approved Special Use Permit from the Forest Service.

8. Forest Service personnel have not assessed the flow requirements or flows available to maintain riparian vegetation.

9. The applicants must reduce the number of acres irrigated under this right to compensate for an out of season diversion of 0.05 cfs to the recreational pond. A continuous diversion of 0.05 cfs over the period from October 1 through May 1 will result in total storage diversion of 18.0 acre-feet of water.

10. In the Teton Basin, the duty of water is approximately 3.0 acre-feet per acre of irrigated land.

MEMORANDUM DECISION AND ORDER

11. The applicants must reduce their irrigated acreage by 6 acres. The applicants have identified the SW1/4SW1/4 of Section 23, T3N, R45E, B.M. as the place of use which should be reduced.

12. The priority of the recreational use must be advanced to the date the application for transfer was filed.

CONCLUSIONS OF LAW

1. Section 42-222 of the Idaho Code (1989 Supp.) provides that ". . . the director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole or in part, or upon conditions (emphasis added), provided water rights are not injured thereby, the change does not constitute an enlargement in use of the original right and the change is in the local public interest as defined in Section 42-203A, Idaho Code."

2. The change in point of diversion seeks to add a second point to divert a specific amount of water which in conjunction with the original point of diversion will not exceed a diversion rate of 2.00 cubic feet per second.

3. Diversion from the proposed upper point of diversion will result in use of water for an additional one to two months beyond the period when water has traditionally been available. The extension of water availability is an enlargement of use unless the transfer is specifically conditioned to prevent enlargement.

4. The total volume of water diverted must be limited to the volume traditionally diverted from the old point of

MEMORANDUM DECISION AND ORDER

diversion.

5. The date of priority for the new point of diversion and the 0.33 cfs diverted from it must be changed to November 2, 1989, the date the amended transfer was filed, to avoid possible injury to other water rights.

6. The right changed by this transfer must be subject to any recorded, reserved or beneficial use rights with earlier dates of priority.

7. To prevent an enlargement of use, the acreage irrigated must be reduced by 6 acres, and the recreation use priority advanced to November 2, 1989, the date the amended transfer was filed.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Transfer of Decree 22-00683 is APPROVED subject to the following conditions:

1. A special use permit must be obtained from the U.S. Forest Service prior to construction of the new point of diversion.

2. The combined rate of diversion from the old and new points of diversion shall not exceed 2.0 cfs.

3. No more than 0.33 cubic feet per second can be diverted from the new point of diversion between July 1 and August 31 of each year.

MEMORANDUM DECISION AND ORDER

4. The total volume of water diverted from the two points of diversion approved by this transfer shall be limited to the volume traditionally diverted from the old point of diversion.

5. The priority date for that portion of the right diverted from the new point of diversion is November 2, 1989.

6. The priority date for the wintertime recreational use is November 2, 1989.

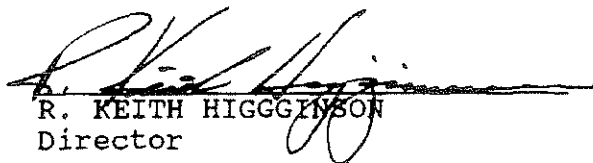
7. The right changed by this transfer shall be subject to any established water rights with earlier dates of priority.

8. Use of water under this permit is subject to control by the watermaster of Water District 01, Snake River.

9. The place of use pursuant to this application for transfer is as follows:

T3N, R45E	Section 22	NE1/4SE1/4	38	acres
		NW1/4SE1/4	28	acres
		SE1/4SE1/2	3.4	acres
T3N, R45E	Section 23	SW1/4SW1/4	6	acres
	Total Number of acres irrigated			- 79.4

Dated this 6TH day of NOVEMBER, 1990.


R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I hereby certify that on this 8th day of November, 1990, I mailed a true and correct copy of this Final Memorandum Decision and Order, postage prepaid, to the following individuals:

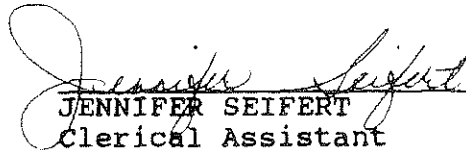
Gary W. Grandy
Box 1111
Petersburg, Alaska 99833

Dick Gebhard
25721 Taladro Circle
Unit #B
Mission Viejo, CA 92691

J.S. Tixier, Regional Forester
324 25th Street
Ogden, UT 84401

IDWR - Eastern Region

Clarence M. Murdock
Forest Service
P.O. Box 777
Driggs, ID 83422


JENNIFER SEIFERT
Clerical Assistant

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

07/24/2007

WATER RIGHT NO. 22-683B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RICHARD HOWARD GEBHARD PO BOX 168 VICTOR, ID 83455 (208)787-2405

Priority Date: 10/22/1901

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
POLE CREEK	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.25 CFS	
STOCKWATER	01/01	12/31	0.02 CFS	
Total Diversion			0.25 CFS	

Location of Point(s) of Diversion:

POLE CREEK	SWNWNW Lt 4	Sec. 26	Township 03N	Range 45E	TETON County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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03N	45E	23		SWSW	4											
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Place of Use Legal Description: STOCKWATER TETON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
03N	45E	23		SWSW										

Total Acres: 4

Conditions of Approval:

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	N05	The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3.	N08	The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

Dates:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close