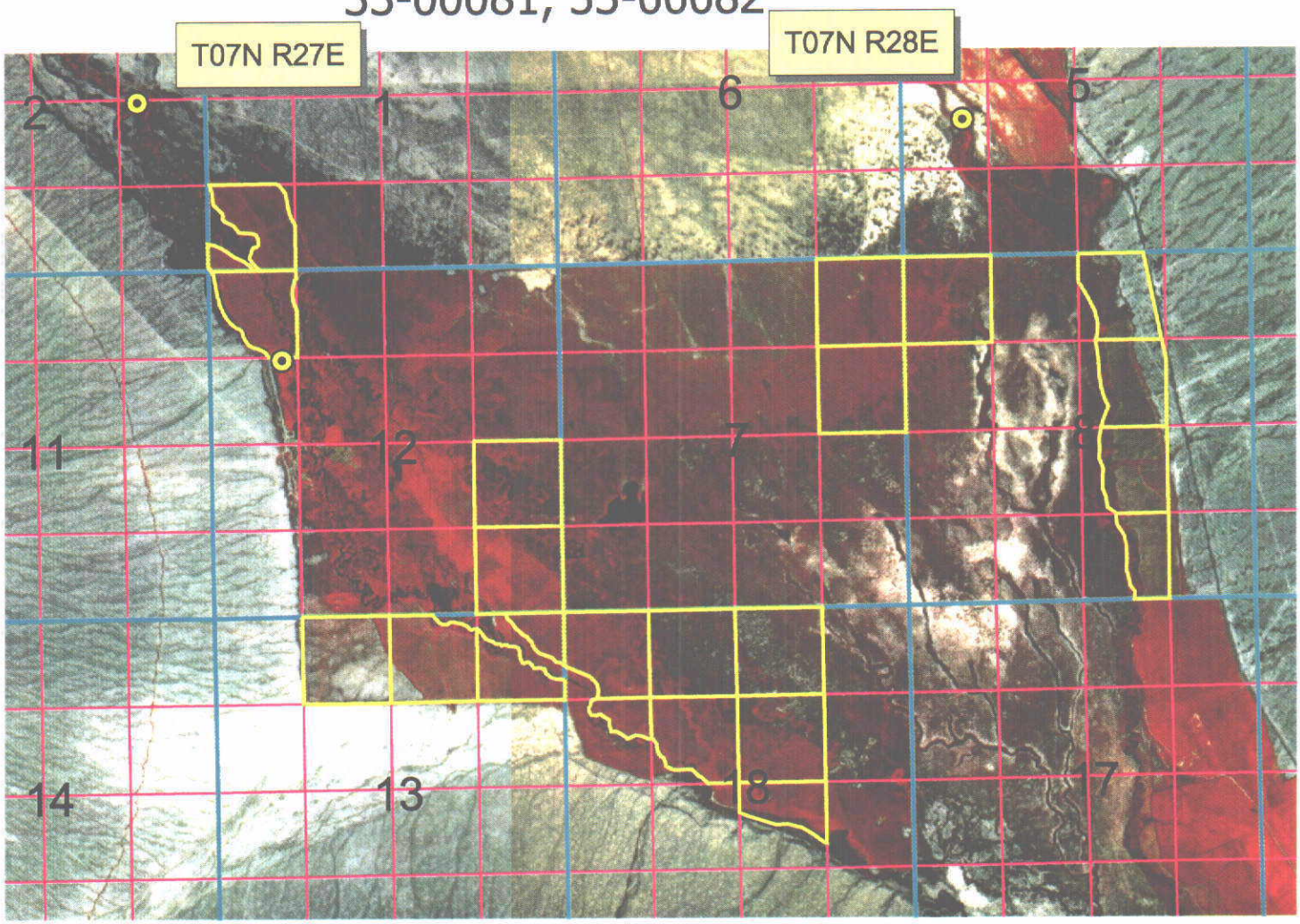
STATE OF IDAHO
Department of Water Resources
Eastern Region

Water Right(s): 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082



0 1320 2640 3960 5280 6600 7920 9240 10560 Feet

LEGEND

- Point of Diversion
- Place of Use
- Section Line
- Quarter-section line

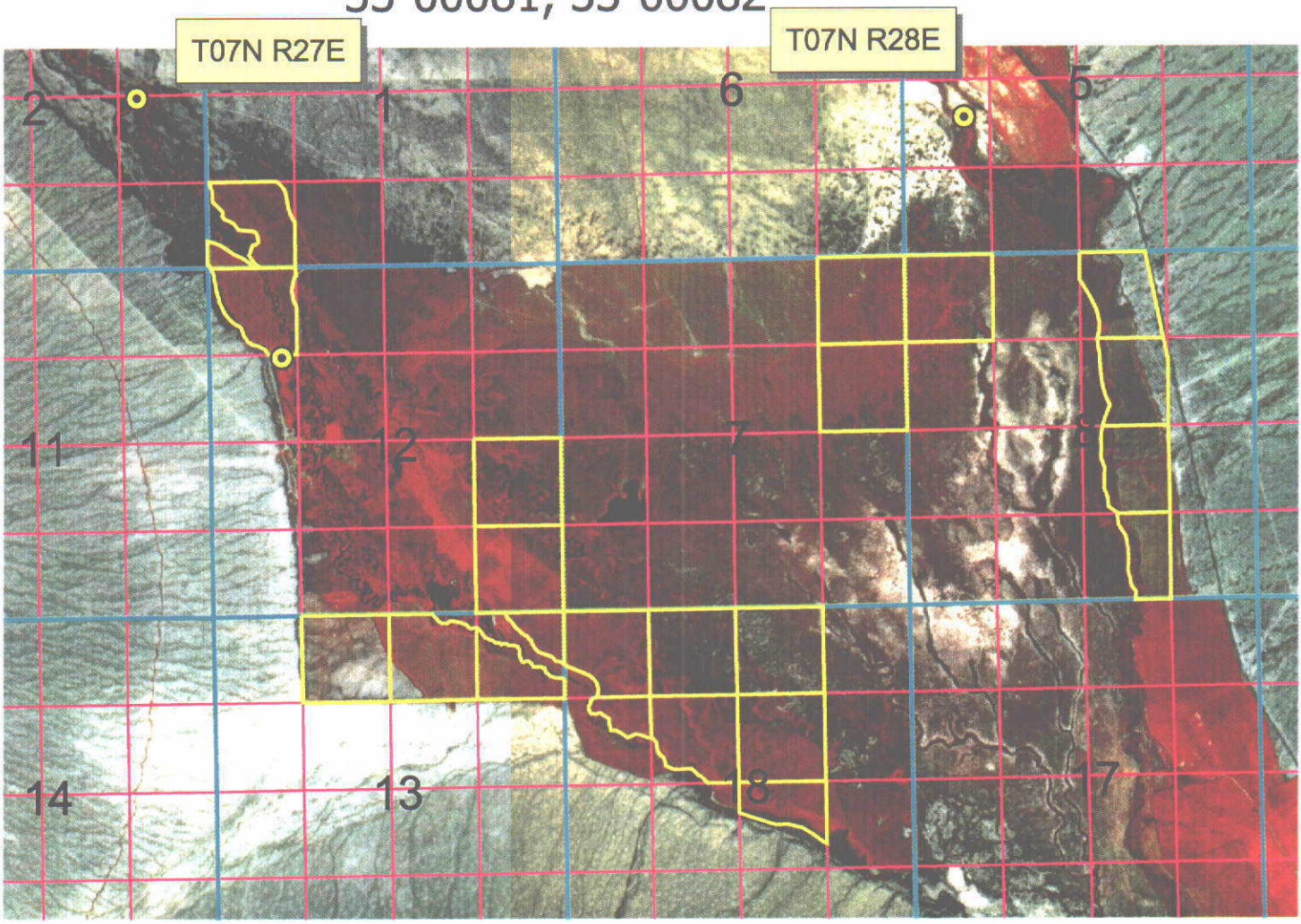
Acres Irrigated = 698

N

GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 1999

STATE OF IDAHO
Department of Water Resources
Eastern Region

Water Right(s): 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082



0 1320 2640 3960 5280 6600 7920 9240 10560 Feet

LEGEND

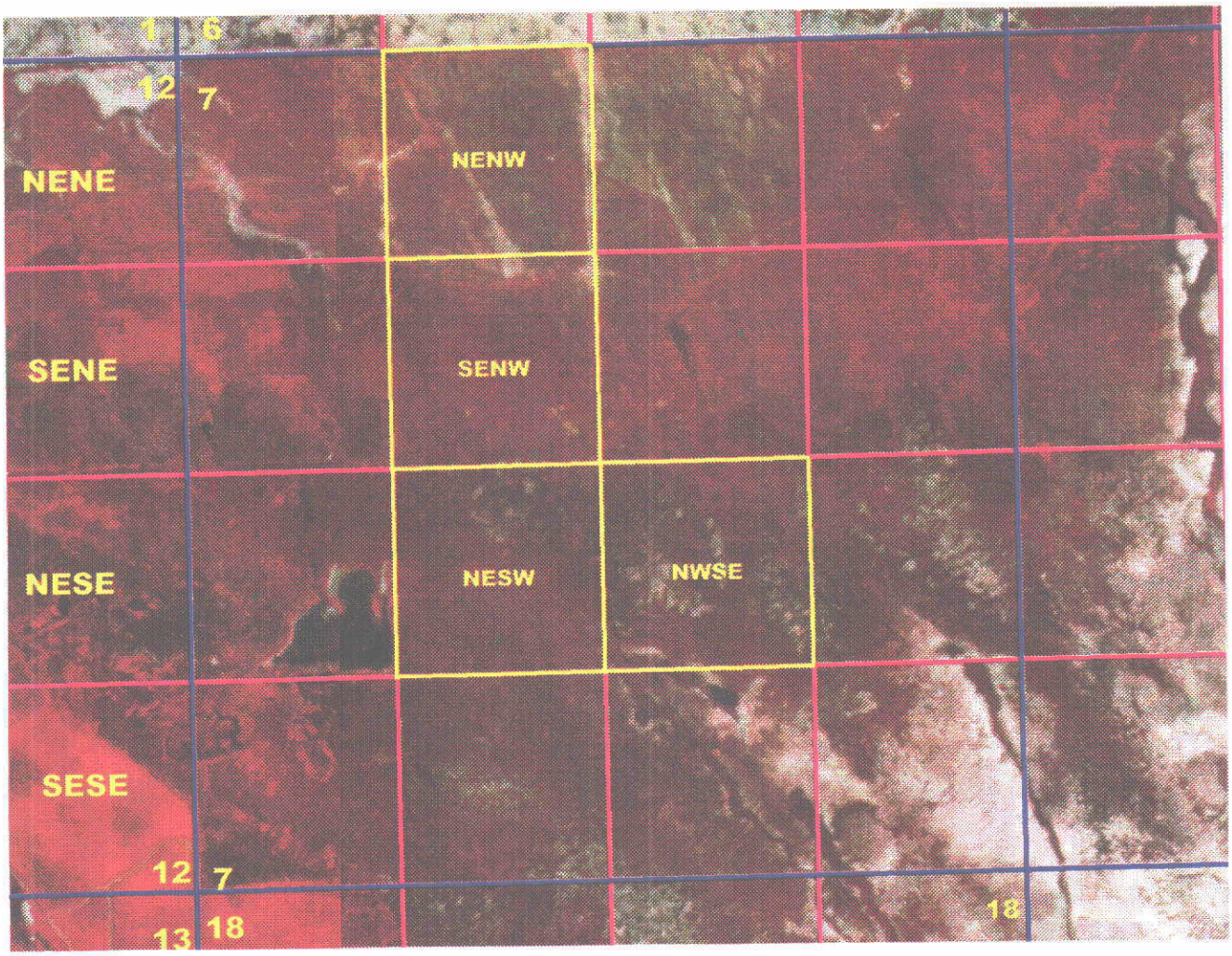
- Point of Diversion
- Place of Use
- Section Line
- Quarter-section line

Acres Irrigated = 698

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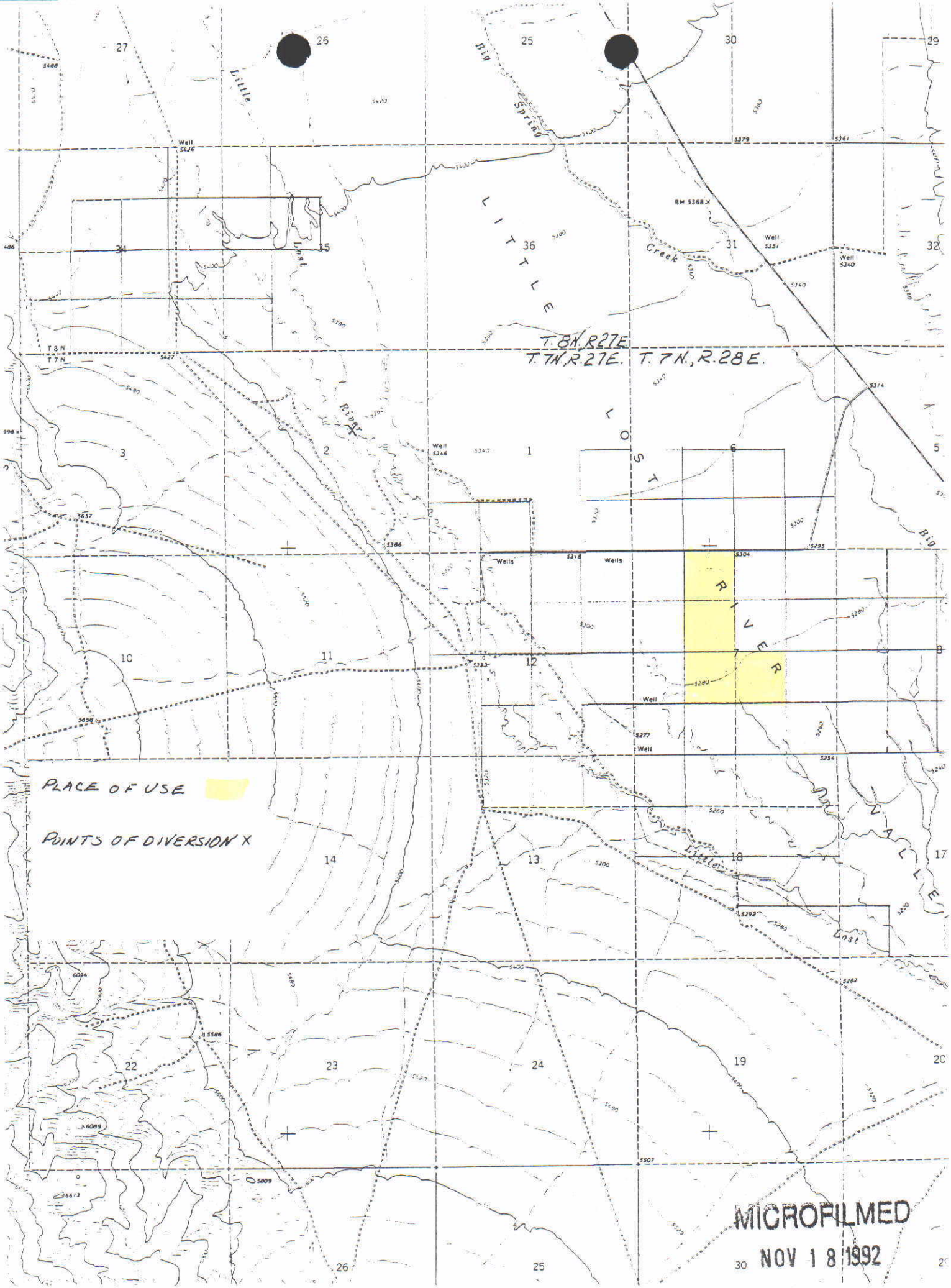
GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 1999

33-00069



Place of Use
POD
Section Line
Quarter Section Line

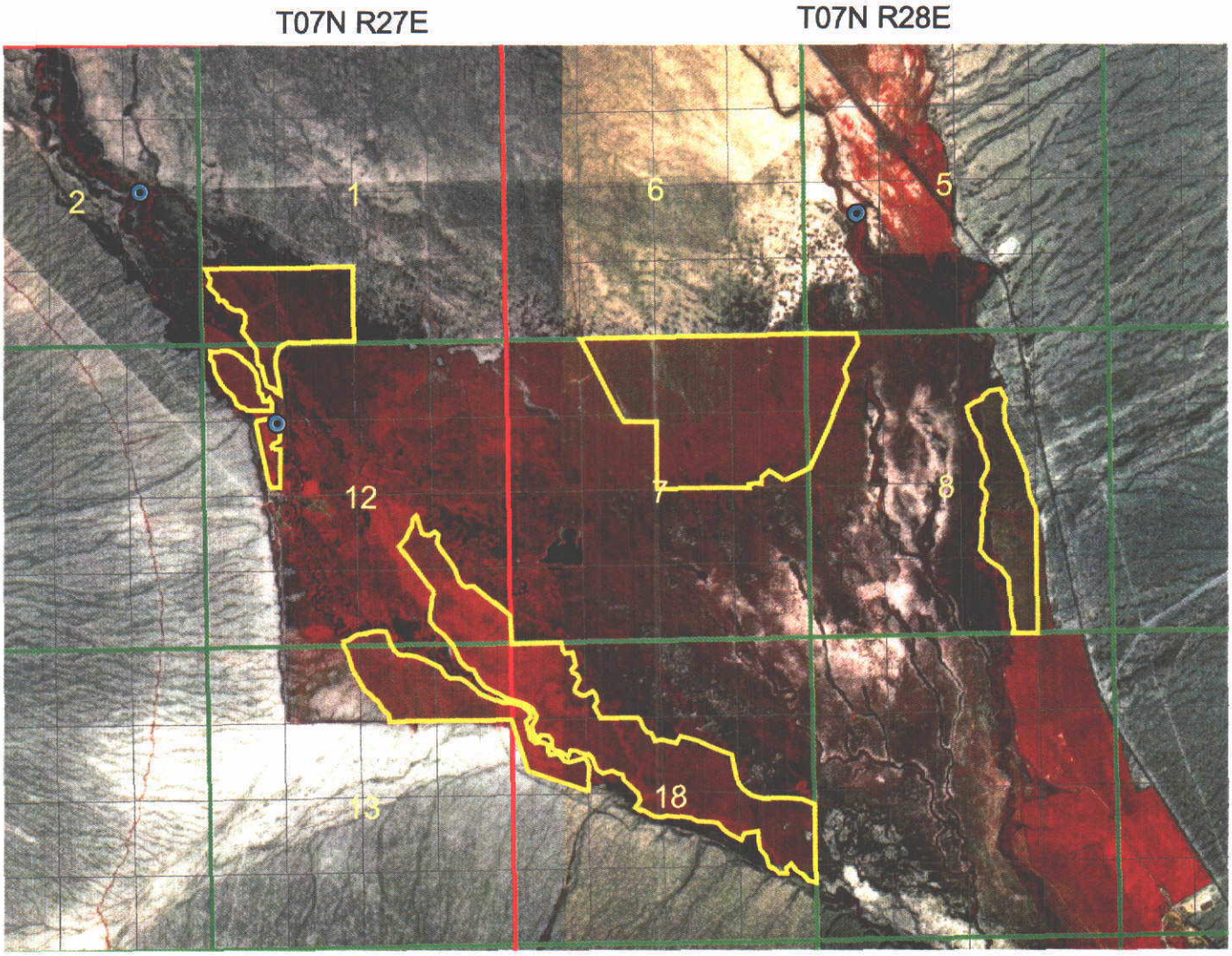
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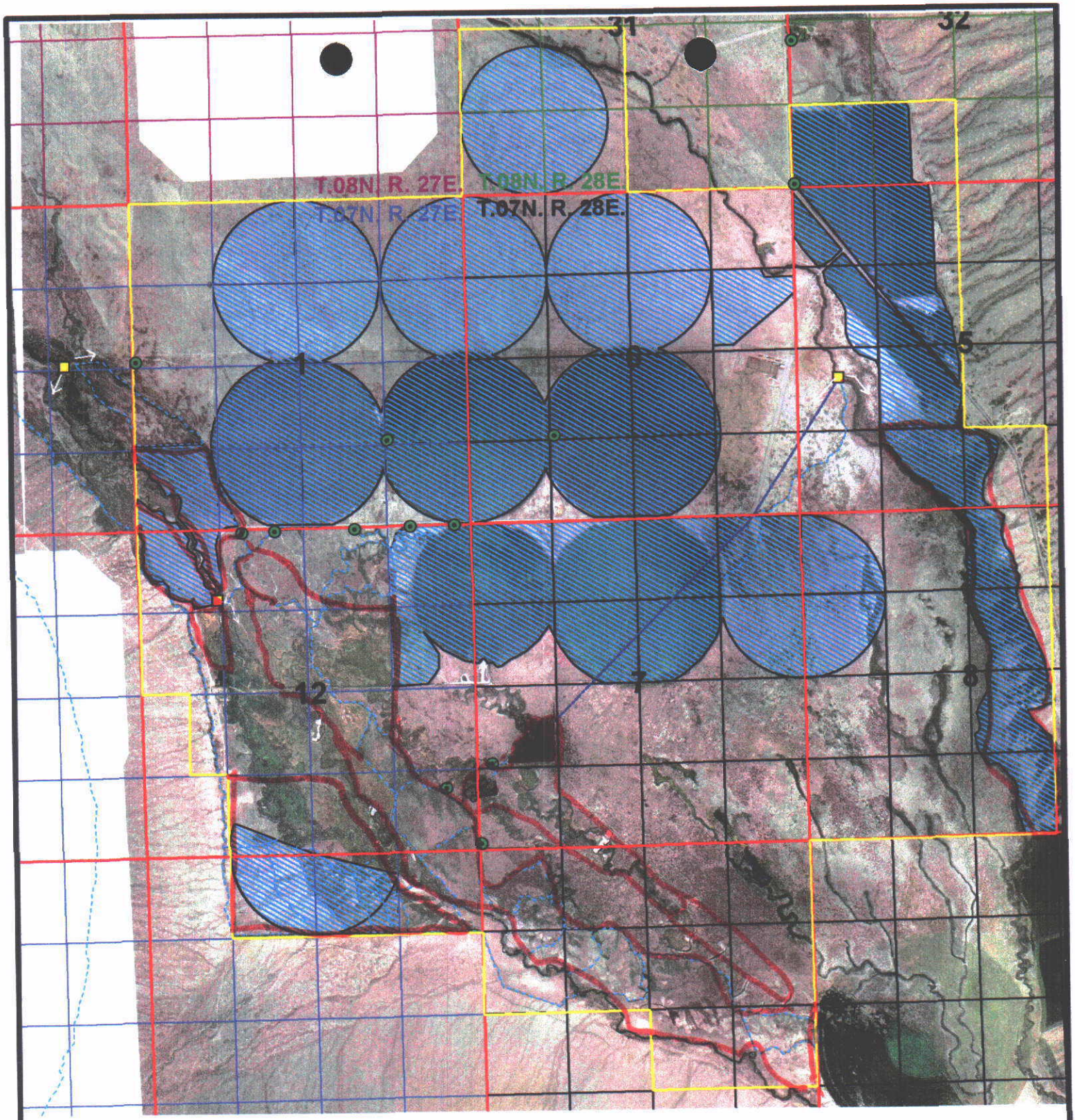
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DEPARTMENT OF WATER RESOURCES

Claim Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: E. Carlsen
Date: July 2004

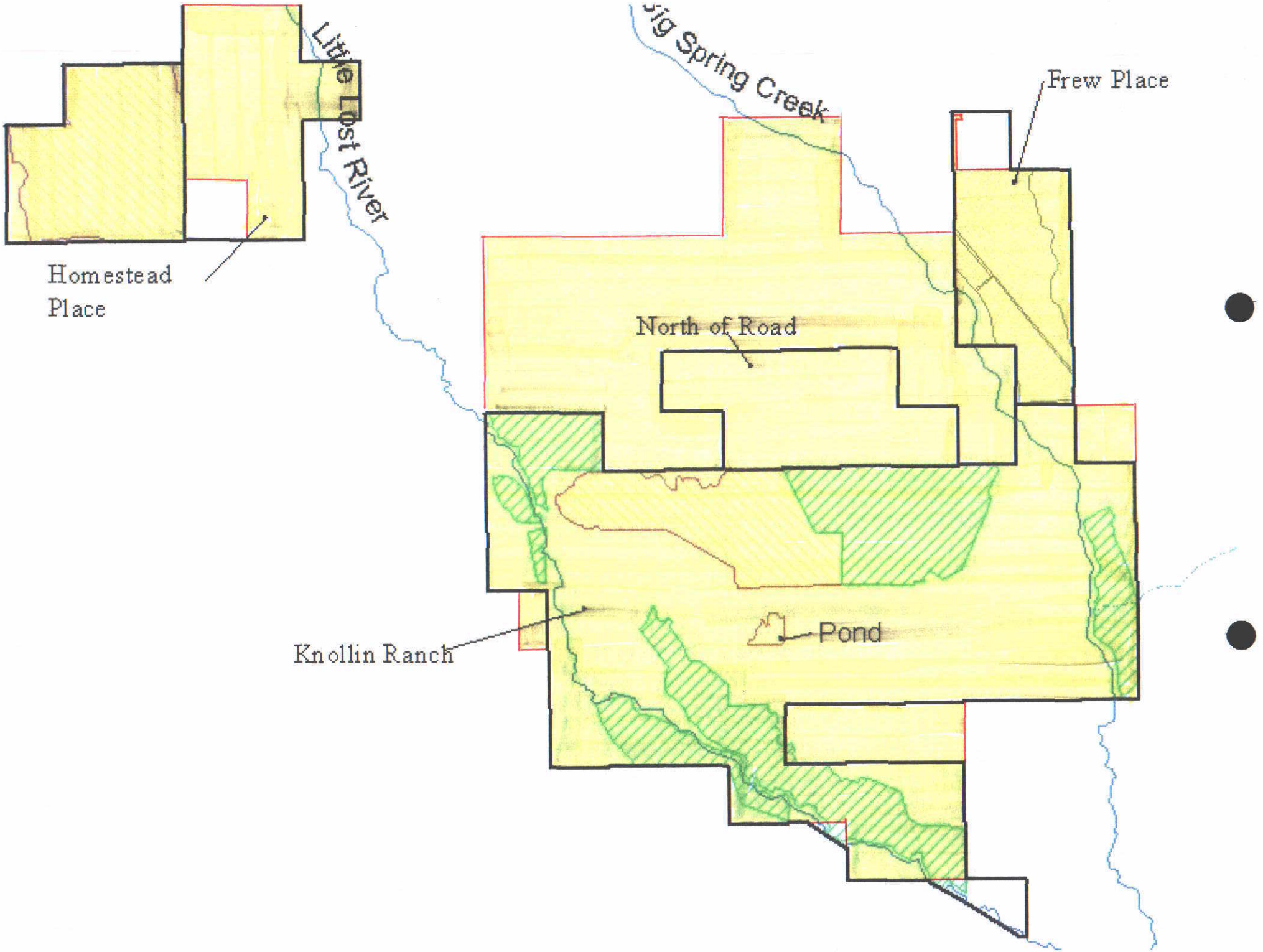


SAGEWILLOW INC. - IRRIGATION PLAN
IRRIGATED AREA 1,816 ACRES
AERO-GRAPHICS PHOTO 8/2003

Diversions.shp
Wells.shp
Property bndry.shp
Sections.shp
Pipeline.shp
Ditches.shp
8n27e.shp
7n28e.shp
7n27e.shp
40s8n28e.shp
1,800 scenario.shp

N

BROCKWAY ENGINEERING, PLLC.
ALR JAN. 12, 2003


Little Lost River
Big Spring Creek
Frew Place
Homestead Place
North of Road
Pond
Knollin Ranch

PARTIALLY SURVEYED TOWNSHIP 7 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

Protraction Diagram No 23 approved 1/22/1935

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS

TRACT NO.	T	R	SEC	SUBDIVISION
1				

SALMON DISTRICT

IDAHO FALLS DISTRICT SEC 3

6 635 | 5 640 | 4 640 | 3 | 2 | 1

7 635 | 8 | 9 | 10 | 11 | 12

18 634 | 17 | 16 | 15 | 14 | 13

19 634 | 20 | 21 | 22 | 23 | 24

30 633 | 29 | 28 | 27 | 26 | 25

31 632 | 32 | 33 | 34 | 35 | 36

42.51
41.60
41.08
40.36

SG 2/4/1965

SG 1/12/1891

USE PLATS

PARTIALLY SURVEYED TOWNSHIP 8 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

Protraction Diagram No. 89, approved 1/22/1965

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

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SURVEY TRACT NO.	ORIGINAL SURVEY T	R	SEC.	SUBDIVISION

I 016191 Def. 2... 57 (Act of Cong. 7/23/1955) completed 3 Cat. Set. All NF surface Mgmt by USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO

USE PLATS

9 N-26 E

9 N-27 E

8 N-26 E

7 N-26 E

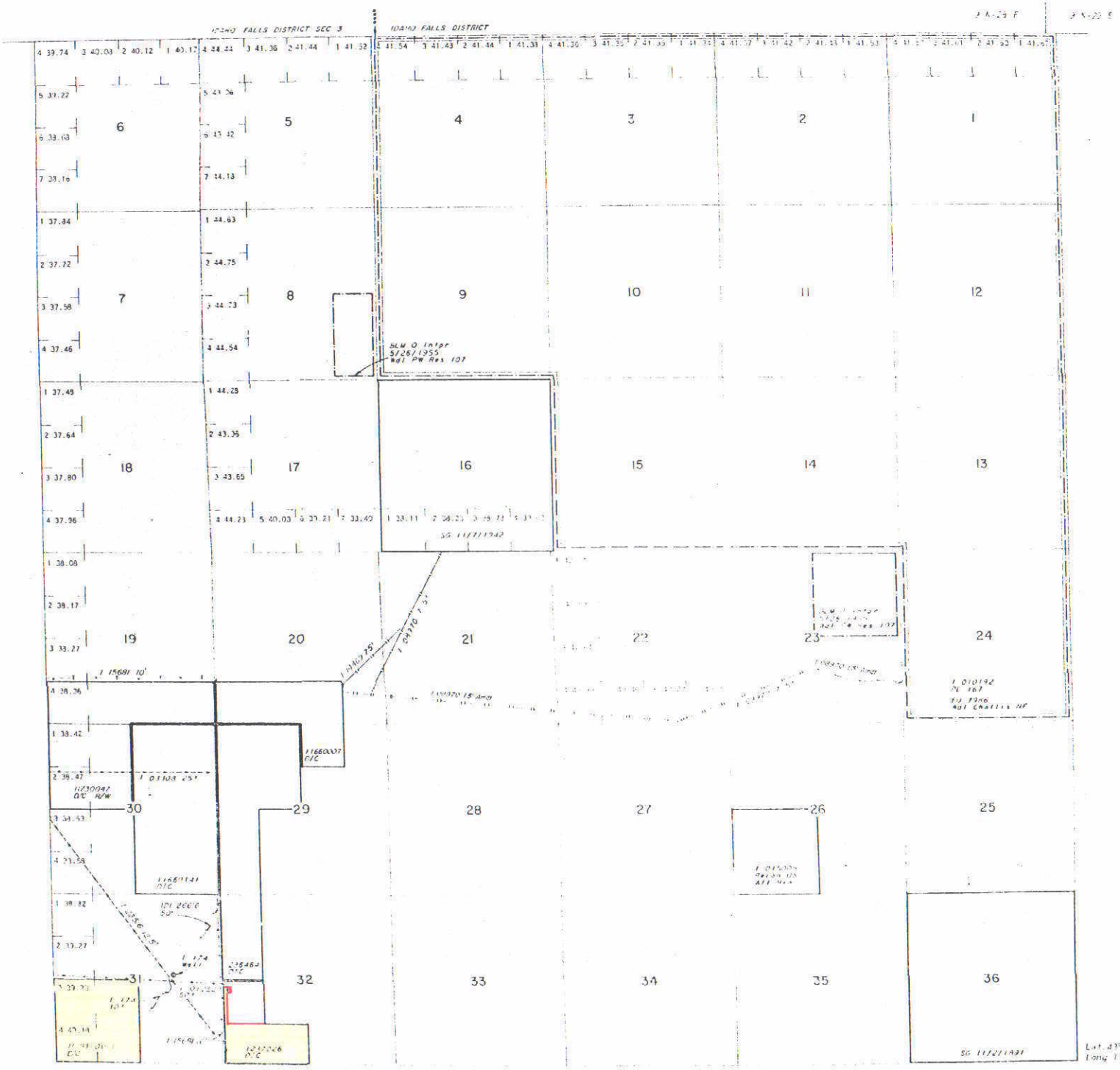
SALMON DISTRICT

IDAHO FALLS DISTRICT

TOWNSHIP 8 28

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES



MT PLAT

INDEX TO SEGREGATED TRACTS

SEGREGATED TRACT NO.	ORIGINAL SURVEY T	R	SEC	SUBDIVISION

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

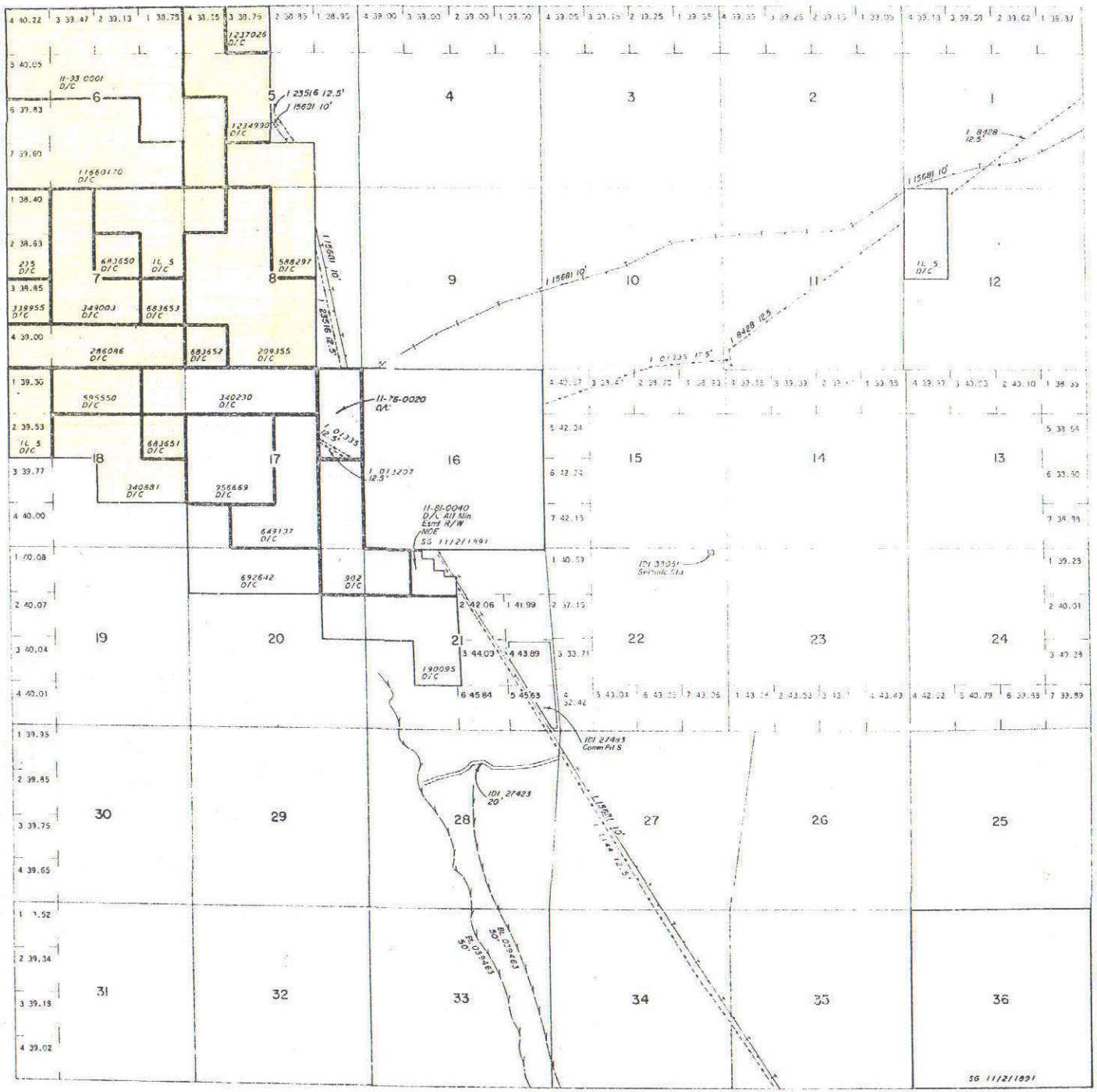
SURVEY PLATS

TOWNSHIP 7 NORTH RANGE 28 EAST OF THE BOISE MERIDIAN, IDAHO

BUTTE COUNTY 023

IDAHO FALLS DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES



MT PLAT

INDEX TO SEGREGATED TRACTS

RESURVEY			ORIGINAL SURVEY	
TRACT NO	T	N	SEC	SUBDIVISION

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

CURRENT TO	CURRENT TO
AUG P.T. 7-28	

USE PLATS:

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Department of Water Resources

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2001 FEB 22 AM 10:43
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

Sagewillow

In Re SRBA	**Subcases: 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, and 33-00082**
Case No. 39576	**ORDER DENYING MOTION TO ALTER OR AMEND AND VACATING SPECIAL MASTER'S REPORTS AND RECOMMENDATIONS**

Special Master's Reports and Recommendations were issued for the above listed water rights on October 27, 2000. The ***Special Master's Reports and Recommendations*** were based on settlement agreements called *Standard Forms 5* agreed to by the parties. The claimant, Sagewillow Inc., filed a *Motion to Alter or Amend* the ***Special Master's Report and Recommendations*** in the subcases listed above on November 28, 2000. A hearing on the *Motion* was held February 7, 2001.

The *Motion* asks the Special Master to alter or amend the ***Special Master's Report and Recommendations***. Sagewillow Inc. asserts that the *Standard Forms 5* were intended to resolve an objection of the United States Forest Service which became necessary due to a typographical error in the legal description. The typographical error was carried over to the *Director's Report.* The *Standard Forms 5* corrected the error in the legal description, but also contained language describing the total acreage limitation for these rights when combined with several other rights to 1,412 acres and describing a total quantity limitation of 28.24 cfs. Sagewillow Inc. did not intend to agree to the limitation language, and has objected to several other pending water rights based on the total acreage and quantity limitation language.

The subcases at issue here are combined with other rights which have a unique procedural history. Several of Sagewillow Inc.'s claims involve appeals of IDWR administrative decisions on transfer applications. Those decisions were appealed to the Seventh Judicial District, and then to the Idaho Supreme Court. The Idaho Supreme Court held that only the SRBA had jurisdiction of this administrative appeal. *Sagewillow, Inc. v. IDWR,* ___ Idaho ___, 13 P.3d 855 (2000). However, at this time the Idaho Legislature has passed HB 114, which would confer jurisdiction of IDWR administrative appeals to district courts other than the SRBA. In any event, judicial review of the administrative decision is not complete. Sagewillow asserts that the review may impact the total acreage and total quantity contained in the *Standard Forms 5* and the ***Special Master's Reports and Recommendations.***

The ***Special Master's Reports and Recommendations*** cannot be altered or amended at this time because these cases overlap with cases which are involved in the ongoing administrative appeal. Therefore, the *Motion to Alter or Amend* is **denied.**

Given the unusual procedural posture of the cases at issue in the *Motion to Alter or Amend* and the opportunity for inconsistent results if the ***Special Master's Reports and Recommendations*** remain valid, this Special Master **vacates** the ***Special Master's Reports and Recommendations*** for the above listed water rights. This ***Order*** in no way alters the binding effect of the *Standard Forms 5,* especially as to the legal description.

DATED February 22, 2001.

BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ***Order Denying Motion to Alter or Amend and Vacating Special Master's Reports and Recommendations*** was mailed on February 22, 2001, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment & Natural Resources Div.
550 W Fort St., MSC 033
Boise, ID 83724

Kent Foster
Holden Kidwell Hahn & Crapo
PO Box 50130
Idaho Falls, ID 83405-0130

(Deputy Clerk)

RECEIVED
APR 6 2000
Department of Water Resources

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

In Re SRBA

Case No. 39576

A. Subcase: See attached list

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America, Acting through the USDA Forest Service

Address: 550 West Fort Street
MSC 033
Boise, Idaho 83724

Daytime Phone: (208) 387-0835

Name and Address of Attorney, if any:

Randall J. Bramer

550 West Fort Street
MSC 033
Boise, Idaho 83724

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

Name: Sagewillow Inc.

Address: c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

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:
4. ☐ **Priority Date**
   Should be:
5. ☐ **Point(s) of Diversion**
   Should be:
6. ☐ **Instream Flow Description**
   Should be:
7. ☐ **Purpose(s) of Use**
   Should be:
8. ☐ **Period of Year**
   Should be:
9. ☒ **Places of Use**
   Should be: T07N R27E S18 should be T07N R28E S18

11. 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):**

The Places of Use in Section 18 are misdescribed in Range 27E. They should be in Range 28E.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Michael Collette , duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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 objections)

(Attorney signing in representative capacity)

Subscribed and sworn before me on: April 3, 2000

Gayla J. Gough

GAYLA J. GOUGH NOTARY PUBLIC STATE OF IDAHO

Notary Public for: Idaho

Residing at: Kuna, Idaho

Commission Expires: 11/17/2004

INSTRUCTIONS FOR MAILING

You must mail the objection 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 certify that on April 5, 2000, I mailed the original and copies of this objection, including all attachements, to the following persons:

1. Original to:

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

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

Name: Sagewillow Inc.

Address: c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resource
Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

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

Signature of Objector or attorney
mailing on Objector's behalf

Attached List

United States of America, Acting through the USDA Forest Service

_33-00069 _
_33-00070 _
_33-00071 _
_33-00072 _
_33-00073 _
_33-00074 _
_33-00076 _
_33-00078 _
_33-00079 _
_33-00080 _
_33-00081 _
_33-00082 _
_33-02057F
_
_33-02133 _

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BUTTE

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226 AND 4227 IN THE NAME OF SAGEWILLOW, INC.	
SAGEWILLOW, INC., Applicant-Appellant, vs. IDAHO DEPARTMENT OF WATER RESOURCES, JAMES MAYS, MAYS LAND AND LIVESTOCK and BLAINE COUNTY CANAL COMPANY, Respondents,	Case No. CV-96-39

RESPONDENT IDAHO DEPARTMENT OF WATER RESOURCES' BRIEF

Appeal on Judicial Review from the Idaho Department of Water Resources
Karl J. Dreher, Director

Kent W. Foster
HOLDEN KIDWELL HAHN CRAPO
P.O. Box 50130
Idaho Falls, Idaho 83405

J. Evan Robertson
Norman M. Semanko
ROSHOLT ROBERTSON TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Attorneys for Applicant-Appellant
Sagewillow, Inc.

Michael C. Creamer
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, Idaho 83701
Attorney for Protestants-Respondents

Phillip J. Rassier
Deputy Attorney General
DEPT. OF WATER RESOURCES
1301 N. Orchard St.
Boise, Idaho 83706
Attorney for Respondent

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STATEMENT OF THE CASE

A. Nature of the Case

This case is an appeal from an administrative decision of the Idaho Department of Water Resources ("IDWR" or "department"). The department decision partially approves water right transfer application nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227 filed by the appellant, Sagewillow, Inc. ("Sagewillow"). Sagewillow owns some 4,580 acres of dry and irrigated land located near the confluence of the Little Lost River and Spring Creek in Butte County, Idaho, north of Gthe town of Howe. The applications propose to change the place of use for twenty-one surface and ground water rights to reconfigure and define the portions of the rights appurtenant to each of seven independent irrigation delivery systems. Sagewillow estimates that it irrigated as much as 2,390 acres in 1993. Some of the transfer applications were protested by respondents James Mays, and Mays Land and Livestock, Co. (the "Mays"), and by the Blaine County Canal Co. ("Canal Co.").

On April 8, 1996, the director of IDWR issued an Amended Final Order approving the seven transfer applications upon the condition that not more than 1,412 acres of land could be irrigated under the approved transfers. The director determined that two licensed rights were totally forfeited and that portions of the other rights sought to be used on land in excess of the 1,412 acres were forfeited. The director also voided a previous water right transfer issued by the department to Sagewillow in 1992 because the water right transferred had been lost by nonuse prior to the transfer approval.

This appeal is brought by Sagewillow to challenge the conditions upon which the director approved the seven transfer applications. IDWR, the Mays, and the Blaine County Canal Co. are

respondents on appeal. The appeal is brought pursuant to I.C. § 42-222, § 42-1701A(4) and § 67-5270.

The record on appeal is voluminous, but the focus on appeal primarily is upon legal issues. Sagewillow maintains that the director's amended final order improperly applies the law of forfeiture and the resumption of use defense to the facts in this case. Sagewillow also argues that the director improperly voided the department's prior approval of a water right transfer which Sagewillow brought back before the department for further change in this proceeding. IDWR maintains that the director properly determined the facts in this case and correctly applied the law as it relates to forfeiture, the resumption of use defense, and the voiding of the previous transfer.

B. Course of the Proceedings

On September 20, 1993, Sagewillow filed seven applications for transfer with IDWR. R., Vol. I, pp. 11-153, Vol. II, pp. 154-229. The applications seek to change the places of use and points of diversion for twenty-one licensed and decreed surface and ground water rights for the irrigation of 2383 acres of land. IDWR published notice of the seven applications as required by statute. R. Vol. I, pp. 231, 236. The Mays and the Canal Co. protested the applications, raising issues of injury, enlargement, and forfeiture. R. Vol. I, pp. 238, 241. The department conducted a hearing on the protested applications on January 31 and February 1, 1995. The department hearing officer issued an amended recommended order on November 7, 1995. R. Vol. IV, pp. 611-629.

Sagewillow filed exceptions with the director to the amended recommended order of the hearing officer. R. Vol. IV, pp. 653-676. The director responded to the exceptions in a final order issued March 12, 1996. R. Vol. IV. pp. 702-723. The director issued an amended final

order on April 8, 1996. R. Vol. IV, pp. 729-750. Sagewillow seeks judicial review of the director's April 8, 1996 order.

C. Statement of Facts

In 1989, Sagewillow acquired a ranch in Butte County located near the confluence of the Little Lost River and Spring Creek commonly known as the Knollin Ranch. At the same time, Sagewillow acquired other lands located near or contiguous to the Knollin Ranch. R. Vol. IV, pp. 736-738. One of these other parcels is located approximately one and one-half miles northwest of the Knollin Ranch and is divided into two parts, one known as the Bird Ranch and the other as the Homestead Place. Another parcel located just north of the Knollin Ranch is referred to as the "North of Road Place." In 1993, Sagewillow acquired additional land contiguous to and northeast of the Knollin Ranch from David and Terry Hawley, known as the Frew Place.

The Knollin Ranch was originally owned by A.J. Knollin. Numerous surface water rights were appurtenant to the ranch. The Canal Co. acquired title to the ranch in 1942 and subsequently sold it to L.R. "Slim" Hawley. The Canal Co. did not convey to Slim Hawley the earliest priority water rights appurtenant to the Knollin Ranch. Instead, the early priority rights were transferred to downstream lands served by the Canal Co. The Canal Co. holds some of the most senior water rights from the Little Lost River, bearing priority dates of 1879 to 1891. Finding of Fact no. 5, R. Vol. IV, p. 736.

Some fourteen later-priority surface water rights from Little Lost River and Spring Creek with a total authorized diversions rate of 41.3 cfs remained appurtenant to the Knollin Ranch with priority dates ranging from 1906 to 1913. The diversion of an additional 2,960 acre-feet of water

from the Little Lost River and Spring Creek was begun in 1949 for soil root zone storage purposes. R. Vol. IV, p. 737. These late priority surface water rights were good only during high flow periods and proved inadequate to irrigate the Knollin Ranch.

Slim Hawley subsequently obtained two licensed ground water rights to irrigate the Knollin and Bird Ranches. The first is right no. 33-02057 in the amount of 24 cfs with a 1950 priority date. The second is right no. 33-02083 for 5 cfs with a priority date of 1957. Water from these two rights is diverted from eight different wells. R. Vol. IV, p. 737. Based upon the testimony regarding historical usage, the director limited the use under these two rights to 1,182 acres, rather than the 1,450 acres claimed.

Ground water rights also were developed for the Frew Place, which Sagewillow purchased from David and Terry Hawley. These are right no. 33-02086 for 4.1 cfs with a 1959 priority date, and right no. 33-07018 for 3.26 cfs with a 1972 priority. Again, based upon the testimony of historical usage, the director limited the use under these two rights to 230 acres instead of the 260 acres for which the right originally was licensed. R. Vol. IV, p. 740, 744.

Finally, Slim Hawley and some of his contemporary relatives obtained patents for two parcels of federal land pursuant to the Desert Land Entry Act. The department issued two ground water rights for use on these lands. The first, was license no. 33-02090 for 5.93 cfs with a 1959 priority date for use on the North of Road Place. The second, was license no.33-02091 for 4.36 cfs with a 1960 priority date for use on the Homestead Place. R. Vol. IV, p. 738. These rights, having a combined diversion rate of 10.39 cfs would be capable of irrigating approximately 514 acres. The director concluded however, based upon the evidence presented, that all rights to the

use of water under these two rights had been lost through nonuse over a 20-year period. R. Vol. IV, pp. 739, 744.

In 1990, Sagewillow through its president Edmund Dumke, applied to transfer license no. 33-02091 (transfer no. 3785) from the Homestead Place to the North of Road Place. Transfer application 3785 was not protested and the department approved the transfer in October 1992 based upon the verified information contained in the application without conducting an independent investigation of the facts. R. Vol. IV, pp. 741-742. Transfer 3785 resulted in an overlap of license no. 33-02091 on the place of use authorized under license no. 33-02090. One reason Sagewillow filed the present transfer applications was to correct transfer 3785 by moving license 33-02091 to lands not already covered under license 33-02090. The director concluded, based upon the evidence presented in this proceeding, that all rights to the use of water under license no. 33-02090 were lost through nonuse prior to the filing of transfer application no. 3785 in 1990. The director, therefore, voided the department's prior approval of transfer 3785.

A geologic formation near the confluence of the Little Lost River and Spring Creek causes a merging of ground and surface water in the southern half of the Knollin Ranch. The Little Lost River loses water to the aquifer above the Knollin Ranch. As the ground and surface waters merge, the Little Lost River and Spring Creek gain water from the aquifer as they flow through the Knollin Ranch. The Little Lost River continues to gain water downstream several miles to the Canal Co. diversion. R. Vol. IV, pp. 738-739.

The authorized places of use and points of diversions for the various water rights prior to Sagewillow's acquisition of the lands are depicted in the record on a map identified as Applicant's Exhibit No. 1"a". The proposed places of use under Sagewillow's applications for transfer are

depicted in the record on a map identified as Applicant's Exhibit No. 1"b". A map depicting the proposed place of use under each of Sagewillow's seven transfer applications is attached to the director's amended final order.

Although the parties agree on most of the relevant facts in this case, they differ on the appropriate legal principles to be applied to those facts.

STANDARD OF REVIEW AND VENUE

In an appeal from an agency decision, the court reviews the agency's decision based upon the record I.C. § 67-5277 (1995); *University of Utah Hosp. v. Board of Comm'rs of Payette Co.*, 128 Idaho 517, 915 P.2d 1375 (Ct. App. 1996). The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. I.C. § 67-5279(1); *Woodfield v. Board of Professional Discipline,* 127 Idaho 738, 905 P.2d 1047 (Ct. App. 1995). The court shall affirm the agency decision unless the court finds that the agency's findings, inferences, conclusions, or decisions are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; not supported by substantial evidence on the record as a whole; or arbitrary, capricious, or an abuse of discretion. I.C. § 67-5279(3); *Howard v. Canyon County Bd. of Comm'rs*, 128 Idaho 479, 915 P.2d 709 (1996); *Viveros v. State Dep't of Health & Welfare*, 126 Idaho 714, 889 P.2d 1105 (1995); *Willig v. State, Dep't of Health & Welfare,* 127 Idaho 259, 899 P.2d 969 (1995). The agency action shall be affirmed unless substantial rights of the appellant have been prejudiced. I.C. § 67-5279(4); *Angstman v. City of Boise,* 128 Idaho 575, 917 P.2d 409 (Ct. App. 1996). If the agency action is not affirmed, it shall be set side, in whole or in part, and remanded for further proceedings as

necessary. I.C. § 67-5279(3); *University of Utah Hosp. v. Board of Comm'rs of Ada Co.*, 128 Idaho 529, 915 P.2d 1387 (Ct. App. 1996).

ISSUES PRESENTED ON APPEAL

The issues presented on appeal by appellant Sagewillow are as follows:

1. Did the director of the department of water resources err in concluding that Sagewillow's water rights have been forfeited?

2. Did the director err in concluding that the resumption of use doctrine is not an available and adequate defense to forfeiture in this matter?

3. Did the director err in voiding transfer no. 3785?

ARGUMENT

I. THE DEPARTMENT PROPERLY DETERMINED THAT A PORTION OF SAGEWILLOW'S WATER RIGHTS WERE LOST THROUGH FORFEITURE.

Sagewillow first challenges the department's decision on the grounds that the director improperly determined that a portion of its documented water rights had been forfeited due to more than five years of continuous nonuse. The department processed Sagewillow's transfer applications under the provisions of I.C. § 42-222 which provides in pertinent part as follows:

> Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided.
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> The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code . . . .
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> * * * *
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> (2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter . . . .

I.C. § 42-222. The Idaho Supreme Court has held that IDWR has jurisdiction to determine the question of forfeiture in a transfer proceeding. *Jenkins v. State, Dep't. of Water Resources*, 103

Idaho 384, 647 P.2d 1256 (1982). A determination on forfeiture is appropriate as a preliminary step to ascertaining whether or not a proposed transfer would constitute an enlargement of the original right or cause injury to other water rights. *Id.*, 103 Idaho at 387.

Forfeiture of a water right under Idaho law may occur by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and thereafter the right to use of the water shall revert to the state and be again subject to appropriation. *Dovel v. Dobson*, 122 Idaho 59, 831 P.2d 527 (1992), *Sears v. Berryman*, 101 Idaho 843, 623 P.2d 455 (1981); *Gilbert v. Smith*, 97 Idaho 735, 552 P.2d 1220 (1976). The director may determine that a water right has been partially forfeited. *See Dovel, supra*, 122 Idaho at 63. Forfeitures, however, are not favored, and clear and convincing proof is required to support a forfeiture. *Jenkins, supra*. The Idaho Supreme Court has stated further that "all intendments are to be indulged against forfeiture." *Hodges v. Trail Creek Irrig. Co.*, 78 Idaho 10, 297 P.2d 524 (1956); *Gilbert v. Smith*, 97 Idaho at 740.

In the present case, the director's application of the law of forfeiture to the facts is reasonable and is supported by clear and convincing evidence in the record, despite Sagewillow's assertions to the contrary.

A. The Director has Statutory Authority to Declare a Water Right Partially Forfeited.

In addition to declaring licensed ground water rights 33-022090 and 33-02091 forfeited, the director also determined that portions of all other water rights appurtenant to Sagewillow's lands in excess of 1,412 acres were forfeited. R. Vol. IV, p. 748. With respect to the remaining four ground water rights, the director determined that rights 33-02057 and 33-02083 were limited to the irrigation of 1,182 acres, and rights 33-02086 and 33-07018 were limited to the irrigation of

230 acres. The director ordered that the portions of these four ground water rights in excess of the combined amount necessary to irrigate a total of 1,412 acres were forfeited through nonuse pursuant to the provisions of I.C. § 42-222(2).

Sagewillow argues first that the director is without authority under I.C. § 42-222(2) to declare that only part of a water right has been lost through forfeiture. Sagewillow cites as authority for this position the recent decision of the Snake River Basin Adjudication (SRBA) district court holding that there is no statutory authority for partial forfeiture of a water right in Idaho. *In re SRBA*, Twin Falls Co. No. 39576 (5th Jud. Dist. Idaho Apr. 26, 1996, Memorandum Decision on Basin-Wide Issue No. 10: Partial Forfeiture, *appeal pending* Idaho Sup. Ct. Docket No. 23214). A copy of the SRBA district court decision is appended to Appellant's Opening Brief.

The SRBA district court's decision on partial forfeiture is not binding on the District Court of the Seventh Judicial District.[1] *Cf. Olds v. State*, 122 Idaho 976, 978 n.1, 842 P.2d 312 (1992) (memorandum decision of a state district court in another case not of precedential value). Furthermore, the decision lacks persuasive authority because it is not based upon a reasonable reading of the provisions of I.C. § 42-222(2), and it represents a dramatic departure from the law of forfeiture as heretofore applied in Idaho and other Western prior appropriation states. The language of I.C. § 42-222(2)construed by the SRBA district court reads as follows:

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[1]The memorandum decision on partial forfeiture is not a determination of the elements of a specific water right coming within the exclusive jurisdiction of the SRBA district court. *See Walker v. Big Lost River Irrigation Dist.*, 124 Idaho 78, 856 P.2d 868 (1993). The memorandum decision on Basin-Wide Issue No. 10 merely provides declaratory relief as to the court's reading of I.C. § 42-222(2) which has application beyond the determination of water rights in the SRBA.

> All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter . . . .

The most straight-forward and credible reading of the statute is that it provides that all manner of rights to the use of water whether acquired pursuant to the statutory method under chapter 2, title 42, Idaho Code, or pursuant to the constitutional use method of appropriation shall be lost through forfeiture by a failure for the term of five (5) years to apply the water to the beneficial use for which it was appropriated. The Supreme Court has recently affirmed a decision of IDWR based upon this construction of the statute. *Dovel v. Dobson*, 122 Idaho 59, 831 P.2d 527 (1992) (affirming IDWR's decision in a transfer proceeding that a portion of a water right appurtenant to 6 acres out of a 96 acre parcel had been forfeited through nonuse).

Recognition that a water right can be established and can continue to exist only to the extent that it is applied to a beneficial use is key to understanding the nature of a water right. This principle is succinctly stated in the first section of Idaho's water statutes as follows:

> and the right to the use of any of the public waters which have heretofore been or may hereafter be allotted or beneficially applied, shall not be considered as being a property right in itself, but such right shall become the complement of, or one of the appurtenances of, the land or other thing to which, through necessity, said water is being applied.

I.C. § 42-101.

It is axiomatic that when a water right that has become established and quantified on the basis of being put to a particular beneficial use is reduced in usage the right is likewise reduced. This principle is codified in I.C. § 42-104, first enacted in 1899, as follows: "The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in

interest ceases to use it for such purpose, the right ceases." Beneficial use is the measure and limit of a water right. *See* Weil, *Water Rights in the Western State*, Third Edition § 478 (1911).

A water right does not exist independently from the purpose for which it is authorized to be beneficially used. A water right appurtenant to 40 acres of land for the purpose of irrigation will be diminished in size on a pro rata basis if the irrigation of some portion of the 40 acre ceases for a continuous five-year period. The principle is not unlike the pro rata division of the same water right that would occur were the land "with all appurtenant water rights" to be divided up into parcels and sold to separate individuals. *See e.g.,Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984) (owners of 80-acre section of land entitled to share of water right proportionate to their share of land described in original decree).

The concept that a water right may be partially forfeited by the failure to continue to make the full beneficial use for which the right was established has been a generally accepted premise since state forfeiture statutes were first enacted at the turn of the Century. Clesson S. Kinney, the respected water treatise author, describes the effects of the then newly-enacted state forfeiture statutes as follows:

> [A]fter the works have been finally completed and the appropriation finally consummated by the application of all of the water claimed thereunder to some useful purpose, the failure thereafter to use all of the water so claimed for a specified time provided by the statute works a forfeiture either to all of the rights or to the portion so unused, and that, too, regardless of the intent not to abandon. The State of Wyoming led off with these laws of State control, and in 1888 it was provided by statute that "The failure to use the water for a period of two years should be deemed an abandonment." This law was in effect until 1905, when the time was extended to five years. In Idaho the period is also five years. It is four years in New Mexico, three years in North Dakota and South Dakota, and two years in Oklahoma.

Kinney on Irrigation And Water Rights, Second Edition, pp. 2022-23, (1912) (emphasis added). Over the past 84 years, the Idaho Court has never suggested in any of its numerous decisions dealing with forfeiture that Kinney's reading of the Idaho statute to allow for partial forfeiture is in error. Nor has the Idaho Legislature enacted any provision inconsistent with Kinney's reading of the statute.

More recent enactments by the Idaho Legislature confirm the principle that I.C. § 42-222(2) should be construed to allow for partial forfeiture of a water right. In 1988, for example, the legislature amended the forfeiture statute to provided an exception for the application of forfeiture to lands placed into federal crop land set-aside programs. 1988 Idaho Sess. Laws 273-75, § 1. Under this amendment only that portion of a water right appurtenant to lands placed in the set-aside program would be protected from forfeiture. Likewise, in 1996 the legislature again amended the forfeiture statute to provide for protection from forfeiture for that *portion* of a water right not being beneficially used due to the substitute application of waste water. 1996 Idaho Sess. Laws 967, § 5. In a 1983 addition to the irrigation district statutes, the legislature recognized that the director of IDWR in a transfer proceeding normally determines whether a water right has been "forfeited, in whole or in part." I.C. § 43-441, as added by 1983 Sess. Laws, ch. 68, §7, p. 150.

Notwithstanding the recent decision of the SRBA district court on Basin-wide Issue 10, the law in Idaho is well-established that any part of a water right not put to the beneficial use for which it was appropriated for a continuous five-year period may be lost by forfeiture.

B. The Director's Determinations of Forfeiture are Supported by Clear and Convincing Evidence.

Sagewillow asks the court to set aside the director's determinations of forfeiture upon the grounds that the record does not contain clear and convincing evidence of five consecutive years of nonuse. Sagewillow is correct that clear and convincing evidence is required to support a determination of forfeiture of a water right. *Jenkins v. State*, 103 Idaho 384, 389 (1982).

Sagewillow takes issue with the sufficiency of the decision and the adequacy of the evidence on forfeiture in several respects. It objects that 1) no separate findings or conclusions of law are contained in the decision demonstrating clear and convincing evidence regarding partial forfeiture of the 14 surface water irrigation rights and four of the ground water rights; 2) the record does not contain clear and convincing evidence that the 14 surface water irrigation rights were forfeited since admittedly water is only available under these junior priority rights during times of high water; and 3) the record does not contain clear and convincing evidence that only 230 acres, rather than 260 acres, should be authorized for irrigation of the Frew Place under licensed rights 33-02086 and 33-07018.

In response to items one and two regarding the 14 surface water irrigation rights, the director found that these late-priority rights can only be delivered during times of high water flows, and that Sagewillow's ground water rights are relied upon to provide a reliable source of water for the lands irrigated. The director did not, as Sagewillow suggests, determine any acres forfeited because of the unavailability of surface water under these late-priority rights. The determination of forfeiture was based upon the testimony and evidence regarding the total numbers of acres historically irrigated under the combined surface and ground water rights. In finding of fact no. 22, the director determined that the testimony of Vance Hawley, a son of Slim Hawley, well-acquainted with the operation of the Knollin Ranch, is the most credible evidence

regarding the traditional use of water on the entire Sagewillow land holdings before 1989. Vance Hawley testified that no more than 1,176 acres were irrigated within the boundaries of the Knollin Ranch and Bird Ranch during the 20 years prior to 1989. R. Vol. IV, p. 740; Tr. Vol. II, p. 26. The determination of the total number of acres historically irrigated on the Sagewillow lands is based, in part, on this testimony of Vance Hawley:

> The combined testimony of Vance Hawley and Terry Scanlan regarding the total place of use for the remainder of the Bird Ranch, the Knollin Ranch, and the Frew Place, establishes a historically irrigated acreage of 1,412 acres during a period of at least two decades.

Conclusion of Law No. 6, R. Vol. IV, p. 744; Tr. Vol. II, p. 26. Vance Hawley's testimony in unrefuted and constitutes clear and convincing evidence as to the extent of the historical irrigation of these lands.

The director next found, based upon the testimony of Terry Scanlan, an engineer and geologist retained by the Mays, that approximately 230 acres were irrigated under licensed rights 33-02086 and 33-07018 on the Frew Place which was acquired by Sagewillow in 1993 from Terry and David Hawley. Finding of Fact 23, R. Vol. IV, p. 740. The director also found that Scanlan's acreage estimate was consistent with the irrigated acreage estimate of Charles Brockway, the expert hired by Sagewillow. Based upon this finding, the director concluded that the total number of acres authorized for irrigation by Sagewillow under license nos. 33-02086 and 33-07018 is 230 acres. Conclusion of Law 7, R. Vol. IV, p. 744-745. The director's determination is based upon clear and convincing evidence in the record. *See* Tr. Vol. II, pp. 76, 91; Protestants Exhibit 18.

Sagewillow maintains that the 30-acre disparity results from the fact that Sagewillow in 1993 purchased only 230 acres of the 260 acre Frew Place to which licensed water rights 33-

02086 and 33-07018 were appurtenant. Sagewillow claims, however, that it purchased all of the water rights appurtenant to the 260 acres and that it now possesses an additional 30-acres worth of water rights which it is entitled to transfer to other lands now owned by Sagewillow. The director rejected Sagewillow's contention, first raised during the post-hearing phase of the agency proceeding. R. Vol. IV, pp. 671-74. The director ruled that Sagewillow's exception was based upon facts not introduced into evidence at the hearing and not available to the hearing officer in reaching his decision. R. Vol. IV, p. 735. Sagewillow argues in its brief that it is apparent in the record from the March 9, 1993 warranty deed under which Sagewillow acquired the Frew Place that it also acquired all of the two licensed water rights. R. Vol. II, pp. 224-26.

A review of the warranty deed from David and Terry Hawley reveals the following appurtenance clause relating to water: "TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-0718." R. Vol. II, p. 225. This clause does not appear adequate to convey any portion of licensed rights 33-2086 and 33-0718 not appurtenant to the approximately 230 acres of land conveyed under the deed. Under this appurtenance clause, it appears that there remained as an appurtenance to the approximately 30 acres not conveyed under the deed a pro rata share of licensed rights 33-2086 and 33-0718. According to Sagewillow, "there were approximately 31 acres of irrigated lands [on the Frew Place] within lands which are not proposed to be irrigated by Sagewillow and which are not owned by Sagewillow." Appellant's Opening Brief, p. 9.

A water right is a real property interest in Idaho. I.C. § 55-101. A water right is an appurtenance to the land on which the water is actually applied. *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984); *Hunt v. Bremer*, 47 Idaho 490, 276 P. 964 (1929). This legal principle is

codified in I.C. § 42-220 which provides that, "all rights to water confirmed under the provisions of this chapter, or by any decree of court, shall become appurtenant to, and shall pass with a conveyance of, the land for which the right of use is granted." Therefore, when land is conveyed together with all appurtenances, it normally will carry with it all appurtenant water rights unless some or all of the rights are expressly reserved. *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911) (conveyance would carry with it the water right appurtenant to the land at the time of the conveyance unless it was specifically reserved in the deed or it could be clearly shown that it was known to both parties that the water right was not intended to be conveyed). The opposite principle must be equally true. A deed purporting to convey only appurtenant water rights cannot be construed to convey water rights or portions of water rights not appurtenant to the lands being sold unless it can be clearly shown that the intent of the parties was otherwise.

In this case, the agency record contains no indication that the intent of the parties was other than reflected in the deed. That is, to convey with the land all water rights appurtenant thereto, but no more. Under this reading of the deed, any valid existing water rights appurtenant to the approximately 30 acres retained by David and Terry Hawley were not before the department for consideration in this transfer proceeding. Whether any water rights appurtenant to those 30 acres have, or have not, been forfeited through nonuse is a question that must be addressed in another proceeding. If contrary to Sagewillow's present assertion, all usage of ground water under licensed rights 33-02086 and 33-07018 was in fact on the 230 acres purchased by Sagewillow, then clear and convincing evidence is present in the record to establish that no more than 230 acres have been irrigated under these two water rights. Either way the result is the same under

this transfer proceeding. The present transfer approval properly recognized the right of Sagewillow to irrigate a maximum of 230 acres under these two licensed rights.

C. The Director Properly Limited the Rates and Volumes of Diversion and the Consumptive Use Volumes under the Rights Transferred.

In approving the transfer applications, the director concluded that:

> These applications for transfer can only be approved if the applicant identifies 1,412 acres to which water will be physically diverted and applied by some means other than subirrigation. Annual volume for physical diversion, delivery, and application should be limited to 4,942 acre feet. Annual consumptive volume will be limited to 3,530 acre feet. The diversion rate will be limited to 28.24 cfs.

The diversion rate of 28.24 cfs is based upon the statutory diversion rate of .02 cfs per acre times the 1,412 acres determined to have been historically irrigated. The annual diversion volume authorized by the department is equivalent to 3.5 acre feet per annum, which is the standard diversion volume required for the area. The annual consumptive volume identified in the order is equivalent to 2.5 acre feet per year and is the annual volume of water that the department determines will be consumed by the plants or lost to the atmosphere.

As acknowledged by Sagewillow the diversion rate is based upon the "duty of water" provision in I.C. § 42-220 which provides in pertinent part as follows:

> [W]hen water is used for irrigation, no such license or decree of the court allotting such water shall be issued confirming the right to the use of more than one second foot of water for each fifty (50) acres of land so irrigated, unless it can be shown to the satisfaction of the department of water resources in granting such license, and to the court in making such decree, that a greater amount is necessary, and neither such licensee nor any one claiming a right under such decree, shall at any time be entitled to the use of more water than can be beneficially applied on the lands for the benefit of which such right may have been confirmed . . . .

I.C. § 42-220.

Sagewillow does not cite any authority for its suggestion that the diversion rate limitation of I.C. § 42-220, although applicable to licensing of rights by the director and to the decreeing of rights by a court, is not applicable to transfer proceedings. The principal rights at issue in this transfer proceeding are licensed rights and they will remain licensed rights after approval of the transfers. The provisions of I.C. § 42-220 must be deemed applicable to this proceeding.

Sagewillow argues that the lands irrigated by Sagewillow require more than one inch per acre for proper irrigation. The record does not reflect that this was established to the satisfaction of the department as is required under I.C. § 42-220. Sagewillow cites to a letter sent to the department in 1972 providing the opinion of a soil conservation district officer that flood irrigation of the lands sought to be irrigated under the then application for permit no. 33-07018 on the Frew Place would require 1.25 inches per acre. R. Vol. VI, p. 1094. The record further shows, however, that the department subsequently licensed the right at the rate of one inch per acre, or 3.26 cfs for 163 acres. R. Vol. II, p. 209. Sagewillow further relies upon the testimony of its expert, Dr. Brockway, that certain lands on the North of Road Place historically irrigated by a combination of flood and sub-irrigation usually would require more than one inch per acre. Tr. Vol. I, p. 163. The record shows, however, that ground water right 33-02090 was licensed for use on this ground at a rate of slightly less than one inch per acre and with a diversion volume of 3.5 acre feet per year. R. Vol. I, p. 21.

The department in approving Sagewillow's transfers in this proceeding was constrained by the one inch per acre limitation of I.C. § 42-220. The record does not show that Sagewillow sought in a meaningful way to demonstrate that more than one inch per acre was necessary for the irrigation of the lands involved. In fact, the opposite appears to be the case. The applications for

transfer themselves request no more than one inch per acre for the lands to be irrigated after approval of the transfers.

II. THE DIRECTOR PROPERLY DETERMINED THAT RESUMPTION OF USE IS NOT A VALID DEFENSE TO FORFEITURE IN THIS CASE.

Perhaps the most significant issue presented by this case involves the claim of resumption of use as a defense to forfeiture. The parties are in substantial agreement as to the total number of acres irrigated on the subject lands in 1989 when Sagewillow purchased the Knollin Ranch. The parties also are in agreement regarding Sagewillow's actions to increase the total number of acres irrigated on its lands between 1989 and 1993. The parties differ markedly, however, on the legal effect of Sagewillow's resumption of the use of water rights which had remained either partly or totally unused for some 20 years.

A. Resuming Use of a Water Right Prior to Filing a Transfer Application does not Prohibit the Department from Considering Forfeiture.

Sagewillow contends that it has successfully escaped the harsh results of forfeiture under I.C. § 42-222(2) by resuming the use of these water rights prior to filing its transfer applications with the department. The director gave careful consideration to this argument in his decision. R. Vol. IV, pp. 703-705, 718-720. After reviewing the relevant Idaho case law, the director rejected Sagewillow's reading of the resumption defense and concluded that:

> Recognition of the resumption of use defense [in the manner proposed] would frustrate the doctrine of prior appropriation in streams where: (1) junior appropriators have established water rights and have relied on water not diverted by a senior user; or (2) in this case, where senior surface water users and other water right holders have relied on related ground water not diverted by Sage Willow's predecessor. While the prior appropriation doctrine is crafted to protect water users by delivering in order of priority, its requirement of beneficial use of water prevents a water right holder from retaining unused water rights for a long period of time and then reasserting the right to the detriment of other right holders.

Conclusion of Law 16, R. Vol. IV, pp. 720-721.

I.C. § 42-222(2) provides quite simply that any right to the use of water shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated. The statute further provides that, when rights have been so lost through nonuse, any rights to the use of the water revert to the state and the water is again subject to appropriation under chapter 2, title 42, Idaho Code. The effect of the statute is that nonuse for a continuous five-year period ends the right, regardless of the appropriator's intent. Hutchins, *The Idaho Law of Water Rights*, 5 IDAHO L. REV. 1, 77 (1968). The lack of a need to establish the intent of the water user is what distinguishes statutory forfeiture from the common law doctrine of abandonment under which a showing of intent is required. *Carrington v. Crandall*, 65 Idaho 525, 531-532, 147 P.2d 1009 (1944). The Idaho Court has often noted the harshness of the forfeiture rule and has said that forfeitures are not favored. *Zezi v. Lightfoot*, 57 Idaho 707, 713, 68 P.2d 50 (1937); *Graham v. Leek*, 65 Idaho 279, 287, 144 P.2d 475 (1943); *Wagoner v. Jeffery*, 66 Idaho 455, 459, 162 P.2d 400 (1945). A statement often cited is that: "The courts abhor a forfeiture, and where no public interest is favored thereby equity leans against declaring a forfeiture." *Hurst v. Idaho Iowa Lateral & Res. Co.*, 42 Idaho 436, 442, 246 P. 23 (1926).

Because of this abhorrence of forfeiture, courts have identified various defenses to forfeiture which apply when no public interest would be served by declaring a forfeiture. *Jenkins v. State Dept. of Water Resources*, 103 Idaho 384, 389, 647 P.2d 1256, 1261 (1982); *Gilbert v. Smith*, 97 Idaho 735, 738, 552 P.2d 120, 1223 (1976). One such defense often cited is that use of a water right otherwise deemed forfeited may be resumed lawfully if the holder of the original right rediverts and applies the water to beneficial use under a claim of right and continuity of

interest prior to an appropriation made by another party. *Zezi v. Lightfoot*, 57 Idaho 707, 713, 68 P.2d 50 (1937); *Carrington v. Crandall*, 65 Idaho 525, 531-532, 147 P.2d 1009 (1944) (forfeiture is not effective if, after the five-year period, the original owner or appropriator resumed the use of the water prior to the claim of right by a third party); *Application of Boyer*, 73 Idaho 152, 160, 248 P.2d 540 (1952); *Wagoner v. Jeffery*, 66 Idaho 455, 459, 162 P.2d 400 (1945). The rationale behind the resumption of use doctrine is that since courts abhor forfeitures water users should be allowed to avoid the harsh consequence of forfeiture where there are no other claims of right by third parties that could be injured by the resumption of use. In other words, no public interest would be served by declaring a forfeiture in these situations. *Hurst v. Idaho Iowa Lateral & Res. Co.*, 42 Idaho 436, 442, 246 P. 23 (1926).

B. Pre-existing Junior Water Rights Qualify as Intervening Claims of Right by Third Parties That Cut Off any Right of Resumption.

An important issue requiring resolution by the district court in the present case is whether pre-existing water rights which are junior to the forfeited water right and which have moved up the priority ladder qualify as intervening claims of right by third parties which cut off the right of resumption. The record is clear that such junior priority rights exist in this case. *See* RESPONSE BRIEF OF MAYS ET AL, p. 19. The department respectfully submits that the correct rule is that existing junior priority water rights which benefit from an enhanced priority status due to the nonuse of the forfeited rights constitute intervening claims of right which serve to cut off the right of resumption.

Several Idaho cases discuss the resumption defense to forfeiture, but only one or two have actually applied the defense. In *Zezi v. Lightfoot*, 57 Idaho 707, 713, 68 P.2d 50 (1937); and *Carrington v. Crandall,* 65 Idaho 525, 531-532, 147 P.2d 1009 (1944) the Court held that forfeiture or abandonment had not been established, and therefore the defense was not applied. In *Wagoner v. Jeffery,* 66 Idaho 455, 459, 162 P.2d 400 (1945) the defense was used successfully because there were no junior water right holders claiming a right to the water which was being diverted from the wells at issue. The dispute was between the original holder of ground water rights perfected from wells located on federal property and another settler who had obtained patent to the property on which the wells were located. The patented owner of the land was unsuccessful in attempting to block the resumption of use of the wells after more than five years of nonuse because he had not established any water rights from the wells. Resumption was allowed because there were no intervening claims to the water.

The facts and holdings in *Application of Boyer*, 73 Idaho 152, 248 P.2d 540 (1952) are difficult to analyze and more uncertain. Although the evidence established that the water right had not been applied to the original place of use for several decades, the Court appears to have concluded that the water right was not forfeited because the water was delivered to other lands for which the owner had been assessed by the irrigation district. 73 Idaho at 159. The decision goes on, however, to quote from *Carrington v. Crandall, supra*, to the effect that forfeiture is not effective if after a five-year period of nonuse the original owner or appropriator resumes the use of the water prior to a claim of right by a third party. 73 Idaho at 160. The Court ultimately concludes that, "The trial court was justified in holding that water had been so used by respondent that he had not abandoned or forfeited his water rights . . . ." *Id.* Interestingly, the *Boyer* Court

does not discuss the issue of potential injury to other water rights that might be caused by the resumption of use if it was indeed the Court's determination that the rights would have been deemed forfeited but for the resumption of use. For this reason, it is urged that caution be exercised in not placing undue reliance upon the language of the *Boyer* case on the resumption of use issue.

The Supreme Court's recent discussion of forfeiture in *Jenkins v. State Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982), provides a clearer beacon by which to be guided:

> If a water right has indeed been lost through abandonment or forfeiture, the right to use that water reverts to the state and is subject to further appropriation. Other parties may then perfect a water right in those waters. Hence a person making a subsequent appropriation will be injured by resumption of the abandoned or forfeited water right. *If a senior right has been abandoned or forfeited, the priority of the original appropriator is lost, and the junior appropriators move up the ladder of priority.* If a senior right which had been forfeited or abandoned were allowed to be reinstated through a transfer proceeding, clearly injury would result to otherwise junior appropriators. Priority in time is an essential part of western water law and to diminish one's priority works an undeniable injury to that water right holder.

103 Idaho at 387, 647 P.2d at 1259 (emphasis added). The Supreme Court's characterization of the enhancing effect on the rights of others when a water right is forfeited is consistent with that of a leading water treatise:

> [U]pon cessation and extinction of an appropriative right to divert and use water of a stream as a result of forfeiture, the quantity of water thereby left flowing in the stream instantaneously either (1) ceases to be appropriated water and instead becomes unappropriated water available for reappropriation, or else (2) it becomes part of the supply to which existing junior rights theretofore not fully satisfied immediately attach to the extent of their lawful requirements.
>
> . . . A Statement in the statute that the water to which a forfeited right formerly attached reverts to the public neither strengthens nor weakens the

practical result of forfeiture--that this formerly appropriated water becomes, both *ipso facto and ipso jure*, either unappropriated water or water needed to satisfy the lawful requirements of existing junior appropriators.

. . . .

[O]n . . . overappropriated streams . . . all of the water released by consummation of forfeiture does not become unappropriated, because the stream is already *overappropriated*. Therefore, part or all of such released water, as the case may be, instantly and automatically, with no lapse of time, inures to the benefit of junior appropriators who have first claim upon the increment for the purpose of "feeding" their rights up to the maximum to which they are entitled when water is available therefor.

Hutchins, *2 Water Rights in The Nineteen Western States*, p. 314-315 (U.S.D.A. 1974).

Sagewillow takes a much different view of the operation of forfeiture under the prior appropriation doctrine. APPELLANT'S OPENING BRIEF, pp. 11-22. Sagewillow's position is that no adverse impact should result under I.C. § 42-222(2) from five years of nonuse of a water right unless there is (1) a new appropriation of water established in the water system with a date of priority subsequent to the five years of nonuse, or (2) there has been a formal declaration of forfeiture by a competent authority prior to the time the water user attempts to resume use of the water right following the five years of nonuse.

Sagewillow's view of forfeiture and the operation of the resumption doctrine would make forfeiture a rare occurrence on a fully appropriated water system, so common in Idaho today. For example, the water system from which Sagewillow claims its rights is considered fully appropriated and is currently subject to a moratorium on the issuance of further permits. I.C. § 42-1806. This means that if the district court were to adopt Sagewillow's view of the law, forfeiture might always be avoided because it is unlikely that a new permitted right could be approved. This assumes, of course, that Sagewillow's reading of the law ignores the existence of

any newly-established rights to the use of ground water for domestic purposes that are exempt from the mandatory permit requirements of I.C. § 42-229. I.C. § 42-227.

Assume that a newly permitted water right on an otherwise fully appropriated water source were identified as Sagewillow requires. It is difficult to ascertain the rationale upon which this most junior of rights on the system should be allowed to defeat the resumption of use of an otherwise forfeited right while a more senior right that obtains most if not all of the benefits from nonuse of the forfeited right is entitled to no consideration. Although Sagewillow argues vigorously that injury to other water rights is not an appropriate consideration under resumption of use, IDWR contends that it is the only real consideration. The resumption of use doctrine is an equitable defense to the harsh realities of forfeiture. As an equitable defense it must only be allowed when the rights of third parties to the use of water from the same source are not injured thereby.

The director properly determined that the existence of junior priority right holders on the same water system constituted intervening third party claimants whose interests would be injured by the resumption of use of Sagewillow's water rights that had gone unused for some 20 years.

III. THE DIRECTOR PROPERLY VOIDED THE PRIOR APPROVAL OF TRANSFER NO. 3785.

The director determined in this action that transfer no. 3785, filed by Sagewillow in 1990 and approved by the department in 1992, should be voided as part of this proceeding because licensed water right 33-02091 was in fact forfeited long before its attempted transfer in 1992. Sagewillow argues on appeal that under a proper application of the doctrines of *res judicata*, collateral estoppel, and equitable estoppel the approval of prior transfer 3785 is final and binding

and may not be voided by the director in this subsequent transfer proceeding. The department contends that the director acted properly in voiding transfer 3785.

A. The Doctrine of Res Judicata does not Prohibit the Director from Voiding the Uncontested Transfer of a Previously Forfeited Water Right.

The doctrine of *res judicata* applies to actions between the same parties upon the same claim or demand. "[T]he former adjudication concludes parties and privies not only as to every matter offered and received to sustain or defeat the claim but also as to every matter which might and should have been litigated in the first suit." *State v. Gusman*, 125 Idaho 805, 807, 874 P.2d 1112 (1994) *citing Joyce v. Murphy Land & Irrigation Co.*, 35 Idaho 549, 208 P. 241 (1922). As Sagewillow points out, Idaho considers the concepts of claim preclusion and issue preclusion both within the doctrine of *res judicata*. *Aldape v. Akins*, 105 Idaho 254, 256, 668 P.2d 130 (Ct. App. 1983). Functionally, these two components are considered separately as formal "*res judicata*" and collateral estoppel respectively. *Id.* Each of these components is addressed separately. Discussed first is formal *res judicata*, or claim preclusion.

Application of the doctrine of *res judicata* in Idaho is guided by the *Restatement (Second) of Judgments* (1982). *See Aldape*, 105 Idaho at 259. Although, the Idaho Court of Appeals adopted the Restatement outright, the Idaho Supreme Court took a more considered approach, choosing to selectively examine various sections and comments from the Restatement, and thereafter adopt, cite favorably, or reject the provision, as the occasion warrants. *Diamond v. Farmers Group, Inc.*, 119 Idaho 146, 149, 804 P.2d 319 (1990). However, since the *Aldape* decision, the Supreme Court repeatedly has referred to the sections of the Restatement (Second) of Judgments for guidance when no Idaho law exists on point. *See Int'l Harvester Co. V. TRW, Inc.*, 107 Idaho 1123, 695 P.2d 1262 (1985) (sec.57); *Diamond, supra,* (secs. 24, 61).; *Nash v.*

Overholser, 114 Idaho 461, 757 P.2d 1180 (1988) (sec.24); *Puckett v. City of Emmett*, 113 Idaho 639, 747, P.2d 48 (1987) (sec.25); *Ross v. Ross*, 117 Idaho 548, 789 P.2d 881 (1990) (sec.19); *Magic Valley Radiology, P.A. v. Kolouch*, 123 Idaho 434, 849 P.2d 107 (1993) (sec.24); *Bell Rapids Mutual Irrig'n Co. V. Hausner*, 126 Idaho 752, 890 P.2d 338 (1995) (sec.24).

Res judicata does apply to administrative decisions. *Welch v. Del Monte Corp.*, 915 P.2d 1371, 1374 (Idaho 1996); *J & J Contractors v. State of Idaho Transp'n Bd.*, 118 Idaho 535, 537, 797 P.2d 1383 (1990). Generally, Idaho law regarding *res judicata* in the administrative arena is sparse and provides little assistance in applying the doctrine. The Idaho Court of Appeals relied upon section 83 of the Restatement (Second) of Judgments to fill the vacancy. *Pence v. Idaho State Horse Racing Comm'n*, 109 Idaho 112, 705 P.2d 1067 (Ct.App. 1985).

The *Restatement (Second) of Judgments* §83 states that *res judicata* generally applies to an administrative determination only if the decision was the result of an adjudication. To constitute an "adjudication," the Restatement requires the following elements:

(1) Adequate notice to parties who are to be bound by the proceeding;
(2) The right of parties to present and rebut evidence and advance legal arguments;
(3) An application of law to specific parties regarding a specific transaction;
(4) A final agency decision; and
(5) Additional procedural elements that may be necessary to provide a sufficient means to conclusively determine the matter in question.

Restatement (Second) of Judgments §83(2).

Idaho courts also have reviewed and applied Restatement (Second) of Judgments, § 26, which states the exceptions to the general rule of *res judicata*. *Phillips v. Miles*, 116 Idaho 842, 844, 780 P.2d 593 (Ct.App. 1989); *State v. Darbin*, 109 Idaho 516, 523, 708 P.2d 921 (Ct.App. 1985). *Res judicata* will not apply if the order reserves opportunity for relitigation of a particular issue or its application is pre-empted by statute or public policy concerns. Restatement (Second)

Judgments, §26(1)(b,d and f). *See also, Pence*, 109 Idaho at 115; *City of San Antonio v. Texas Dept. of Health*, 738 S.W.2d 52, 55 (Texas 1987).

1. *Res Judicata* does not preclude IDWR's determination regarding water right 33-02091.

Res Judicata does not preclude IDWR's determination regarding water right 33-02091 because (1) the approval of transfer application 3785 reserved subsequent review, (2) the Idaho Code allows subsequent review, and (3) public policy concerns require subsequent review. IDWR reviews transfer applications consistent with the statutory duties in I.C. § 42-222. The records of transfer application 3785 show that IDWR examined the application, as required by statute, and considered the relevant facts within IDWR's possession.[2] Even if IDWR did conduct a more detailed investigation, IDWR still could not determine whether a forfeiture had occurred without the facts from Sagewillow or information from a third party, such as the protestants in this case. By comparing the description of a water right in a licensing file with the description of the right in a transfer application, IDWR can determine whether a transfer presents an expansion of use. That same information, no matter how closely scrutinized, will not demonstrate forfeiture.

IDWR is aware of this deficiency in transfer proceedings and frequently reserves subsequent review of the validity of the water right as a condition of approval. Condition 3 in the IDWR approval for transfer 3785 reads: *Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.* R. Vol. VI, p. 1000.

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[2] *See particularly* APPLICATION FOR TRANSFER OF WATER RIGHT, Oct.11, 1990, R. Vol VI, pp. 998-1004. Nothing in the application for transfer provides any indication of the prior forfeiture of the water right.

IDWR directed Sagewillow's attention to the transfer approval conditions . See Letter of October 9, 1992, R. Vol. VI, p. 1011. If based upon available information, IDWR finds that forfeiture has occurred, it must make that determination to prevent injury to other water users. I.C. 42-222(2); *Jenkins v. State of Idaho Dept. Of Water Resources*, 103 Idaho 384, 387, 647 P.2d 1256 (1982). It is irrelevant that the determination did not actually occur before the SRBA district court.

Under I.C. § 42-350 all licensed water rights are subject to the statutory condition that if IDWR discovers that the licensee has ceased to put the water to beneficial use for a period of five years then IDWR may seek to revoke the license. Sagewillow is deemed to have constructive knowledge of the laws of this state.[3] Sagewillow cannot claim immunity from the provisions of I.C. § 42-350 merely because licensed right 33-02091 went through a transfer proceeding. The right remained a license subject to the provisions of the statute.

The director's final order relied upon the public policy exception to support reconsideration of right 33-02091. R. Vol. IV, pp. 706-708. When making policy determinations, Idaho courts balance all of the competing interests. *See, Barnett v. Eagle Helicopters, Inc.*, 123 Idaho 361, 364, 848 P.2d 419 (1993). In cases involving a conflict between the sovereign power of a government entity and the protection of private property, a harmful effect upon a property owner alone is insufficient to rule the government's action unjust. *Coeur D'Alene Garbage v. Coeur D'Alene*, 114 Idaho 588, 591, 759 P.2d 879 (1988), *citing Johnston v. Boise City*, 87 Idaho 44, 52, 390 P.2d 291 (1964). The court must find a "reasonable relationship" between the

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[3]Mistake of law is not a defense. *Washington Federal S. & L. Assoc. v. Transamerica Premiere Ins.*, 124 Idaho 913, 915, 865 P.2d 1004 (1993); *State v. Fox*, 124 Idaho 924, 926, 866 P.2d 181 (1993).

government's action and the general public welfare in order for the court to validate the exercise. *Id.* While balancing the interests of the public versus the private individual, the court in *Coeur D'Alene Garbage* said:

> If the exercise of the authority under such an enactment is reasonable and not arbitrary, any injury occasioned thereby must be considered a servitude inherent under our system of government, and damages from such injury must be considered as *damnum absque injuria*. *Id.*

In the present case, the Director noted that "the evidence showed that there would be adverse impacts to the public interest and interests of water users not parties to the initial action if the approval of transfer no.3785 is not reconsidered." R. Vol. IV, p. 707. Other water users with junior rights dependent upon the interconnected surface and ground waters of the Little Lost River system have an interest adverse to the interest Sagewillow in resuming the use of right 33-02091, which under the provisions of I.C. § 42-222(2) is deemed forfeited. Considering the interests at stake, the director reasonably could take no other course than to order right 33-02091 forfeited despite the previous transfer approval.

2. *Res judicata* does not apply to IDWR in the context of a transfer proceedings before the agency.

The doctrine of *res judicata* further is inapplicable because IDWR was not a party to the agency proceeding. *Res judicata* prevents litigants who were parties in a prior action and those parties in privity with them from bringing or having to defend a claim arising from the transaction or series of transactions giving rise to the first suit. *Gubler By and Through Gubler v. Brydon*, 125 Idaho 107, 110, 867 P.2d 981 (1994). To apply *res judicata*, a court must determine whether a person was a party to a prior suit as a matter of substance and not mere form; a person

is not a party if not in an adversarial position against a party. *American Tritacle, Inc. v. Nytco Services, Inc.*, 664 F.2d 1136, 1147 (9th Cir. Idaho, 1994).

Administrative agencies often wear several hats in carrying out their duties. In a given situation, an agency may act in a quasi-judicial capacity, a prosecutorial or enforcement capacity, an investigative capacity, or as a political entity.[4] In an unprotested transfer proceeding IDWR could not participate as a party. IDWR reviewed the license against the information Sagewillow provided in a quasi-judicial capacity. IDWR did not initiate an independent factual investigation or conduct a hearing on the unprotested transfer application. IDWR's role did not approach that of a party. The doctrine of *res judicata* is not applicable to the department in this case.

B. Collateral Estoppel does not Bar the Voiding of Transfer 3785.

Collateral estoppel works to prevent the relitigation of issues of ultimate fact. *State v. Gusman*, 125 Idaho 805, 808, 874 P.2d 1112 (1994). The Idaho Supreme Court utilizes a five factor test to determine whether collateral estoppel will act as a bar to the litigation of a particular claim. Those five factors are:

(1) the party against whom the earlier decision is asserted had a full and fair opportunity to litigate the issue decided in the earlier case;
(2) the issue decided in the prior litigation was identical to the issue presented in the present action;
(3) the issue sought to be precluded was actually decided in the prior litigation;
(4) there was a final judgment on the merits in the prior litigation; and
(5) the party against whom the issue is asserted was the party or in privity with a party in the prior litigation.

125 Idaho at 808.

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[4] Idaho Administrative Procedure Act, I.C. 67-5200 *et seq.*

Idaho law prevents claim preclusion when a litigant[5] cannot fully and fairly present an issue. *State v. Gusman*, 125 Idaho 805, 874 P.2d 1112(1994); *State v. Jones*, 127 Idaho 478, 903 P.2d 67 (1995); *Western Indus. and Envir'l Svcs., Inc. V. Kaldveer Assc., Inc.*, 126 Idaho 541, 887 P.2d 1048 (1994). As discussed above, IDWR's role in a transfer proceeding is that of a quasi-judicial decision maker.

Just as with *res judicata*, there is a public interest exception to collateral estoppel. Restatement (Second) Judgments, §28(5)(a). *State v. Gusman*, 125 Idaho 810, 813, 874 P.2d 1117 (1993) (Before applying collateral estoppel, it is necessary to examine the nature of the proceedings and to determine what ends would be serve if applied). Also as with *res judicata*, the court must consider the interests of other water users against the interests of Sagewillow.

IDWR also is not precluded by collateral estoppel because the "litigation" must present identical issues. *State v. Gusman*, 125 Idaho at 809. Quoting *State v. Powell*, 120 Idaho 707, 709, 812 P.2d 561 (1991), the Idaho Supreme Court explained that "[a]lthough the evidence received in each proceeding may be very similar, the issues for which that evidence is offered as proof [may] differ significantly." *Id.* The ultimate issue IDWR reviewed in transfer 3785 was whether changing the place of use for water right license 33-02091, which IDWR assumed was still valid, would injure any other water users. Because IDWR did not have any evidence indicating forfeiture or abandonment IDWR did not review those issues in the transfer 3785 proceeding. However, in the present transfer proceeding which again involved water right no. 33-

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[5] IDWR does not consider itself a "litigant" to transfer proceedings. However, if the court were to treat IDWR as a litigant to the transfer 3785 proceeding, that still would not preclude subsequent review of the validity of the underlying water right.

02091 the issue of forfeiture did arise and the director properly considered it. *Jenkins*, 103 Idaho at 387.

C. Equitable Estoppel does not Bar the Voiding of Transfer 3785.

Estoppel, which is an equitable doctrine, ordinarily does not apply to a governmental agency acting in its sovereign capacity.[6] *Brandt v. State*, 126 Idaho 101, 105, 878 P.2d 800 (1994). Idaho case law has allowed estoppel arguments against a governmental entity only in particularly egregious examples of facts giving rise to the estoppel. *Lloyd Crystal Post No. 20, The American Legion v. Jefferson County*, 72 Idaho 158, 163, 237 P.2d 348 (1951) ("exceptional and unusual" facts warranted estoppel against city); *Boise City v. Sinsel*, 72 Idaho 329, 241 P.2d 173 (1952) (municipality acting in police power not estopped from commanding removal of encroachment on municipal property); *State ex rel. Williams v. Adams*, 90 Idaho 195, 202, 409 P.2d 415 (1965) (neither mistake or misinformation will estop government from subsequent tax collection); *Harrel v. City of Lewiston*, 95 Idaho 243, 247-48, 506 P.2d 470 (1973) (insufficient circumstances warranting application of estoppel against a municipality acting pursuant to police power); *Kleiber v. City of Idaho Falls*, 110 Idaho 501, 503, 716 P.2d 1273 (1986) (hotdog vendor with business license cannot estop city from enforcing sidewalk obstruction law); *Brandt v. State*, 126 Idaho 101, 878 P.2d 800 (1994) (estoppel argued to promote "justice and fair play").

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[6]Sovereign rights can be described as that right that the state alone, or its governmental agencies, can possess, and which it possesses in the character of a sovereign, for the common benefit, and to enable it to carry out its proper functions; distinguished from such "proprietary" rights as a state, like any private person, may have in property or demands that it owns. *Black's Law Dictionary*, 1396, West Pub., 6th ed.

In *Brandt v. State*, the court considered whether a parole board was estopped from denying parole to a convict who claimed to rely upon a tentative release date. The court quoted a Ninth Circuit case: "'Where justice and fair play require it' estoppel will be applied against the government, even when the government acts in its sovereign capacity if the effects of estoppel do not unduly damage the public interest." *Brandt*, 126 Idaho at 105, citing *U.S. v. Lazy FC Ranch*, 481 F.2d 985, 989 (9th Cir. 1973). The *Brandt* court, however, did not rule on the issue because it was not presented to the lower court.

Had the *Brandt* court fully considered the issue, it might have provided a closer reading of *U.S. v. Lazy FC Ranch*. The facts in that case, as with the other cases where a court applied estoppel against a government agency acting in a sovereign capacity, illustrate circumstances very different from the present situation. In that case, an officer of the Agricultural Stabilization and Conservation Service (ASCS) instructed a ranch partnership how to restructure the partnership to take advantage of federal aid under the Acreage Reserve and Conservation Reserve programs of the Soil Bank Act, 7 U.S.C. §1801 et seq. The agency entered into contracts with the partnership, which at some point later the partnership requested the agency to terminate. Despite the fact that ASCS regulations had changed to prohibit such restructuring of a partnership, as well as the contracts entered into with ASCS, the agency refused to terminate the contracts. The agency then asserted the partnership violated the Soil Bank Act with these contracts. The agency sought repayment of money it therefore alleged the partnership obtained by fraud or mistake. The court held that the actions of the agency estopped it from denying the legality or propriety of the actions by the partnership and disallowed the agency's claim.

Although the district court in *U.S. v. Lazy FC Ranch* determined the agency was acting in a proprietary capacity, the Ninth Circuit Court of Appeals determined the agency was acting in a sovereign capacity. The court recognized that "estoppel is available as a defense against the government if the government's wrongful conduct threatens to work a serious injustice and if the public's interest would not be unduly damaged by the imposition of estoppel." *U.S. v. Lazy FC Ranch*, 481 F.2d at 989. The court continued, "This proposition is true even if the government is acting in a capacity that has traditionally been described a sovereign (as distinguished from proprietary) although we may be more reluctant to estop the government when it is acting in this capacity." *Id.* By this standard, a court reviewing whether to estop a government agency acting as a sovereign must find "wrongful conduct," "serious injustice" to the claimant, no undue injury to the public interest, and importantly, each of these must be found against some higher standard. The general elements of estoppel also apply (detrimental reliance by one party upon a position taken by another party that the first party had a right to rely upon). Appellant's Opening Brief at pp. 34-35.

IDWR's decision on transfer 3785 did not constitute "wrongful conduct." IDWR reviewed transfer 3785 consistent with its statutory duty. IDWR conditioned the transfer upon a subsequent determination of the validity of the water right. IDWR was not wrong to subsequently determine the validity of the water right as facts became available.

A claimant should not be heard to proclaim serious injustice when their claim is limited by the laws of the state, equally applied to all the residents in the state. The forfeiture provisions of the water code are clear, and Sagewillow points to no evidence that contradicts the director's finding that right 33-02091 was completely unused for a period of almost twenty years. After five

years of nonuse, a water right reverts to the state of Idaho. I.C. 42-222 (2). Forfeiture is instant and self-actuating, and another person may appropriate the use of the water. *Jenkins*, 103 Idaho at 387-388. The public interest favors a correct determination of the water right that is consistent with the prior appropriation doctrine and the law of forfeiture.

The final question is whether the facts in this case meet the high standards necessary for asserting estoppel against a government agency acting in its sovereign capacity. The Idaho Supreme Court in *Alder v. Mountain States Telephone and Telegraph Co.*, 92 Idaho 506, 511, 446 P.2d 628 (1968), denied a claim of estoppel where the claimants were in full possession of all the relevant facts they sought to estop the government from denying. Sagewillow's predecessors in interest were aware of the facts regarding the forfeiture. Sagewillow was in the best position to discover those facts when it purchased the property. It can not now assert that the department is estopped from acting on those facts.

Sagewillow relies on two cases from other jurisdictions to support the assertion that "the government, and private parties, can be estopped from declaring a forfeiture." Appellant's Opening Brief at p. 34. Sagewillow's reliance on these cases is misplaced; neither of the cases cited apply estoppel against a government agency. In *Glenwood Irrigation Dist. V. Myers*, 465 P.2d 1015 (Utah, 1970), the court applied estoppel against a private party, the plaintiff, who failed to appeal a state engineer's decision allowing the defendant more time to put a water right to beneficial use. *Id*, at 81. The plaintiff participated in the proceeding, but rather than appeal the state engineer's decision, he brought a private suit against the defendant to adjudicate the validity of the water right. *Id.* This situation is not relevant to the present case.

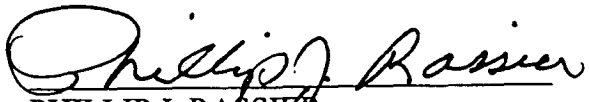
Sagewillow suggests that *Sturgeon v. Brooks*, 73 Wyo. 436, 281 P.2d 675 (1955), stands for the proposition that the right to declare forfeiture is waived if not "promptly asserted." Appellant's Opening Brief at p. 34. The *Sturgeon* case must be read within the context of Wyoming law. The case involved one private party seeking an adjudication of another's water right that was unused for more than twenty years. The Wyoming court denied the forfeiture action because use under Wyoming law the right resumed prior to a judicial decree of forfeiture. 281 P.2d at 683. Although the Wyoming court cites early Idaho cases in support of reaching this result, this is not the law in Idaho and most likely never was the law in Idaho. I.C. § 42-222(2); and *Jenkins*, 103 Idaho at 387-88.

CONCLUSION

The Idaho Department of Water Resources respectfully urges this court to affirm the decision of the director on transfer application nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227. The director properly determined the facts in this case and correctly applied the law as it relates to forfeiture of water rights, the resumption of use defense to forfeiture, and the voiding of prior water right transfer no. 3785.

RESPECTFULLY Submitted this 12th day of December, 1996.

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Department of Water Resources

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy/copies of the following described document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on this 12th day of December, 1996.

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226 AND 4227 IN THE NAME OF SAGE WILLOW, INC.	)))))	**AMENDED FINAL ORDER**

INTRODUCTION

Sage Willow, Inc. (Sage Willow) filed seven applications for transfer with the Idaho Department of Water Resources (Department). The applications propose changing the place of use for several surface and ground water rights. The multiple applications were filed to define portions of various ground water and surface water rights that would be appurtenant to each of seven independent delivery systems. A map depicting the system described by each application is attached at the end of this decision. Some of the applications were protested by the Blaine County Canal Co. (the Canal Co.), James Mays, Mays Land and Livestock Co. (collectively referred to as "Mays") and Simplot Land and Development Co. Simplot Land and Development Co. subsequently withdrew its protest.

After expiration of the protest period Mays discovered they had not protested all of the applications for transfer filed by Sage Willow. Mays filed a motion to amend the protest to include protests opposing all of the applications for transfer and to add issues of forfeiture and enlargement to the issues raised by the original protests. The motion to amend was granted prior to the hearing.

On January 18, 1995, the Canal Co. filed a motion to amend its protests. The hearing officer initially denied the motion to amend from the Canal Co. because it was untimely. At the hearing, however, the hearing officer revoked the order denying the motion to amend and granted the motion to amend. The Canal Co. and Mays participated as full parties in all the proceedings. A hearing regarding the protest was conducted on January 31 and February 1, 1995.

A recommended order was issued on May 22, 1995. Counsel for Sage Willow timely filed a petition for reconsideration that the hearing officer granted. The order granting reconsideration limited reconsideration to two (2) issues:

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1. Whether use of water pursuant to water right no. 33-02091, although previously transferred/abandoned, should be recognized because of the approval of transfer no. 3785, which was approved in 1992.

2. Whether the number of acres authorized for irrigation pursuant to rights nos. 33-02086 and 33-07018 should have been reduced solely on the basis of Terry Scanlan's testimony.

Briefs were to be filed regarding the petition for reconsideration on or before July 14, 1995.

Sage Willow requested a transcript of the record, and after issuance of the order granting reconsideration, the parties agreed to delay briefing until the transcript was prepared. The parties both filed briefs on or about September 1, 1995.

An amended recommended order (ARO) was issued on November 7, 1995. Sage Willow filed a second petition for reconsideration which was denied.

Sage Willow filed exceptions to the amended recommended order, and Mays filed a brief in response to the exceptions. The exceptions will be discussed in the following analysis portion of the decision. Findings of fact, conclusions of law and the order will follow the analysis section.

ANALYSIS

Sage Willow filed exceptions to the amended recommended order as follows:

(1) The ARO misinterprets the resumption of use doctrine and its application to any portion of the water rights that may have been unused for a period of five or more years, but have since been resumed;

(2) The ARO improperly concludes that transfer number 3785 can, and should, be voided; and

(3) The ARO improperly concludes that only 230 acres have historically been irrigated on the Frew Place, rather than 260.

Resumption of Use

Sage Willow alleges several elements must be satisfied before a resumption of use after forfeiture can be defeated:

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1. A new water right must be established by appropriation that will prevent a resumption of use.

2. A new water right established by appropriation to prevent a resumption of use must be established after the five (5) year forfeiture period has run. Water rights perfected with dates of priority between the priority of the alleged forfeited right and the date when forfeiture occurred cannot prevent a resumption of use.

3. Use of water must be by adverse possession. There must be open and notorious use, and the notice must be directed toward the original owner.

4. A person wanting to appropriate the forfeited water cannot simply sit by and wait, holding a water right in the ladder of priority. He is required to do something affirmative once the right in question has been forfeited.

5. A forfeited water right can be resumed until it is declared forfeited by a competent authority.

There must be an appropriation of water with an intervening priority date that will be injured by the resumption to prevent a resumption of use. All of the other criteria proposed by Sage Willow are inconsistent with the prior appropriation doctrine.

If a new appropriation is required, a water user holding a water right with a date of priority between the priority of the alleged forfeited right and the date of forfeiture who wanted to improve his water supply would be required to file another application for appropriation. If the new appropriation assumes its place in the order of priority, water users with earlier in time priority water rights would receive the excess water. This result would require that a water user would be required to file for a new appropriation simply as a matter of form to receive water which he would have received pursuant to the priority system anyway. This is promoting form over substance.

Idaho Code § 42-222(2) states that when a water right is forfeited the water right reverts back to the state and is subject to appropriation. If the water reverts back to the state upon forfeiture, and is subject to appropriation, the original owner has no title to a water right that can be acquired through adverse possession. To allow a person to gain ownership of a water right after it has been forfeited is inconsistent with the doctrine of prior appropriation.

Sage Willow argues that the owner of an existing water right with a date of priority later than the alleged forfeited right cannot sit and wait to defeat a resumption of use, but must act affirmatively as described above. This theory would require a water right holder on a stream to continuously monitor the uses of water of all the users up and down a river, hoping to improve his

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water supply. When continuous monitoring reveals a forfeited right, he must file an application for a new appropriation of water, in addition to somehow taking the water of another person openly and notoriously, even though he may be diverting that water several miles upstream or downstream from the point of diversion for the water right alleged to be forfeited. This kind of requirement is outside of the law. A water user who has forfeited his water rights should not be allowed to resume the right where junior users have come to rely on the water made available as a result of the forfeiture.

Finally, Sage Willow argues that a resumption of use cannot be defeated unless forfeiture is declared prior to the time the resumption occurs. Recognition of this theory would result in a race for declaration of forfeiture prior to any resumption.

Sage Willow analyzes the Idaho cases on resumption of use along with cases from other jurisdictions. Sage Willow argues convincingly that Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952) recognizes resumption of use for a right diverted from a fully appropriated stream long after the forfeiture period had expired. In Boyer, the protestants produced evidence that the water rights allegedly forfeited had not been used for several decades. The evidence also showed that use of water under the right had been resumed only a short time period prior to consideration of the application for transfer by the State Reclamation Department (predecessor to theDepartment of Water Resources). Sage Willow argues that the hearing officer misinterpreted the case and its finding by implying that the right may never have been forfeited because the water was used on a different place of use. Sage Willow argues that the right was forfeited, but resumed, even though there were intervening water rights.

The Boyer case leaves some questions about when a forfeited right can be resumed and whether some of the earlier requirements raised by Sage Willow, such as adverse possession, must be proven. Even more important, the resumption of use analysis in Boyer does not discuss injury to other water rights that would result from a resumption of use.

The issue of injury is central to the considerations of the Department in reviewing an application for transfer. There was uncontroverted evidence presented at the hearing that Sage Willow's resumption of use would enlarge the traditional use of water on the lands now owned by Sage Willow, would deplete stream flows in the Little Lost River, and would make further demands on the ground water resources of the basin. The Department will not ignore the injurious effects on other water users that will be caused by Sage Willow's diversion and use of water beyond the traditional use of water on the lands acquired by Sage Willow. The original holding regarding the resumption of use in the amended recommended order will not be changed.

Voiding of Transfer No. 3785

The ARO held that transfer no. 3785, previously approved by the Department in 1992, should be voided. The transfer approved moving the point of diversion and place of use for water

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right no. 33-02091. At the hearing on the applications for transfer now pending, evidence was presented to show that water right no. 33-02091 was forfeited prior to the approval of transfer no. 3785.

The ARO recognized administrative *res judicata*. The Department should not entertain duplicative "claims" or "issues" except under extraordinary circumstances. The purpose for *res judicata* before administrative agencies is similar to the purpose before the courts: (1) to prevent litigation of the same matter with inconsistent results; (2) to avoid repetitious litigation; and (3) to avoid the harassment of repetitive claims. The Department should exercise restraint in disturbing a prior decision. Nonetheless, the Department of Water Resources is charged not only with deciding what should be done where there are disputed proposals for use of water before the Department, but also with general oversight of the water resources of the state of Idaho. Because of its oversight responsibility, the Department should have wider latitude in setting aside a prior decision.

Sage Willow asserts that the ARO did not sufficiently analyze *res judicata*, and its component parts. The Idaho Supreme Court has adopted the Restatement (Second) Judgments (1982). *Res judicata* is divided into two component parts, claim preclusion and issue preclusion. Claim preclusion prevents a party from pursuing other remedies "with respect to all or any part of the transaction . . out of which the action arose." Aldape v. Akins, 105 Idaho 254, 259, 668 P.2d 130 (1983). Issue preclusion, or collateral estoppel, "bars the relitigation of issues actually adjudicated and essential to the judgment in a prior litigation between the parties." Aldape at 256.

The most compelling reason for voiding transfer no. 3785 and reviewing water right no. 33-02091 against the test of forfeiture is set forth in Section 28 of the Restatement:

> Although an issue is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, relitigation of the issue in a subsequent action between the parties is not precluded in the following circumstances:
>
> (5) There is a clear and convincing need for a new determination of the issue (a) because of the potential adverse impact of the determination on the public interest or the interest of persons not themselves parties in the initial action, (b) because it was not sufficiently foreseeable at the time of the initial action that the issues would arise in the context of a subsequent action, or (c) because the parties sought to be precluded, as a result of the conduct of his adversary or other special circumstances, did not have an adequate opportunity or incentive to obtain a full and fair adjudication in the initial action.

Restatement (Second) of Judgments § 28.

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At the hearing for the now pending transfers, the evidence showed that there would be adverse impacts to the public interest and interests of water users not parties to the initial action if the approval of transfer no. 3785 is not reconsidered.

Sage Willow criticizes the Department for discussing some equitable reasons why transfer no. 3785 should be reconsidered. These reasons included a short time period since the approval of transfer no. 3785, the expenditure of money by Sage Willow prior to approval of transfer no. 3785, the attempt in the pending transfers to correct a misdescription of the place of use in the approval of transfer no. 3785, and the omissions regarding questions of forfeiture on the application for transfer form. Sage Willow alleges these facts should not be considered by the Department.

Sage Willow supplemented its submittal of legal authority on January 2, 1996. In the supplemental brief, Sage Willow quotes Keller v. Magic Water Co., 92 Idaho 276, 441 P.2d 725 (1968). The Keller court states that principles of equity should be applied in determining whether issues before the Department should be reconsidered. It raises three of those equitable issues: (1) the long period of time which had expired since the permit approval, (2) the substantial sums of money which had been expended by the permit holder in reliance on the approval, and (3) the issue of whether other water users were damaged by the omission of the financial information. Two of the three equitable issues raised by the Keller court, the injury issue and the expiration of time issue, are resolved in Mays' favor. Only the expenditure of money by Sage Willow is a consideration in its favor, and Sage Willow's expenditure occurred prior to the transfer approval. Furthermore, there are other equitable reasons briefly discussed above why this reconsideration does not impose an unreasonable hardship on Sage Willow. Issue preclusion does not prohibit the Department from voiding transfer no. 3785 and reconsidering the issue of forfeiture.

Whether the Department of Water Resources characterizes the issues before it as claim preclusion or issue preclusion, the result is the same. The Department should not be barred from reconsidering a prior decision which is inconsistent with the general statutory scheme of protecting other water users. It also should not be barred from reconsidering a prior decision where there are extraordinary reasons for the reconsideration.

Sage Willow also argues that the Department is prohibited from voiding or reconsidering transfer no. 3785 because of equitable estoppel. Both parties agree that equitable estoppel can apply to government agencies acting in their sovereign capacity under extraordinary circumstances. In addition to applying only in extraordinary circumstances, the proponent of equitable estoppel must establish that the Department either concealed or falsely represented facts with actual or constructive knowledge of the truth. Sage Willow did not prove that the Department concealed or falsely represented the facts. Equitable estoppel does not apply to the Department in this case.

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Finally, Idaho Code § 42-350 states:

> If the director of the department of water resources finds, on the basis of available information *at any time after a license is issued*, that the licensee has ceased to put the water to a beneficial use for a period of five (5) continuous years . . . then the director of the department of water resources may issue . . . an order to show cause before the director of the department . . . why the director of the department should not revoke said license . . . . (Emphasis added).

While this statute directs a specific administrative process and does not discuss the effect of a transfer approval, it supports a holding that the director can review forfeiture issues, even after a transfer approval has been granted.

Forfeiture of a Portion of the Frew Place of Use

In the ARO, the hearing officer held that the place of use for water right nos. 33-02086 and 33-07018 should be limited to 230 acres because of the testimony of Terry Scanlan (Scanlan) and corroborating evidence by Charles Brockway (Brockway), the expert for Sage Willow. Sage Willow states that Brockway's testimony and exhibits do not corroborate Scanlan's testimony. Sage Willow recites facts regarding the purchase of the water rights and the land by Sage Willow which were not introduced into evidence at the hearing and were not available to the hearing officer in reaching his decision. The number of acres in the Frew Place, authorized by water right nos. 33-02086 and 33-07018, will be limited to 230 acres.

Based on the above analysis, the Director issues the following Findings of Fact, Conclusions of Law and Order.

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FINDINGS OF FACT

1. In 1989, Sage Willow acquired a ranch, located near the confluence of the Little Lost River and Spring Creek, commonly known as the Knollin Ranch. At the same time, Sage Willow also acquired other parcels contiguous to or nearby the Knollin Ranch.

2. One of the other parcels is located approximately 1½ miles northwest of the Knollin Ranch. The parcel is divided into two pieces by the east 16th line of Sec. 35, T27N, R28E, B.M. The property located on the west side of the 16th line is commonly known as the Bird Ranch. The property located east of the 16th line is commonly known as the Homestead Place.

3. Another parcel is located on the north side of an east-west county road, which was the northern boundary of the original Knollin Ranch, and will herein be referred to as the "North of Road Place."

4. In 1993, Sage Willow acquired additional land contiguous to and northeast of the Knollin Ranch from David and Terry Hawley (the Frew Place).

5. The Knollin Ranch was originally owned by A.J. Knollin. Several surface water rights were appurtenant to the Knollin Ranch. Because of financial difficulties, A.J. Knollin conveyed his interest in the Knollin Ranch to the first mortgage holder in 1942. In the same year, the Canal Co. purchased the Knollin Ranch from the mortgage holder. During the late 1940's, the Canal Co. sold the ranch land to L.R. "Slim" Hawley (Hawley). The earliest priority water rights appurtenant to the Knollin Ranch were not conveyed to Hawley, however, but were retained by the Canal Co. and later transferred to downstream lands. The Canal Co. rights are some of the earliest water rights diverted from the Little Lost River, bearing priority dates of 1879 to 1891.

6. Several late priority surface water rights remained appurtenant to or were developed for use on the Knollin Ranch. These later rights are described below:

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Irrigation Rights

Water Right No.	CFS	Priority	Source
33-00069	3.2	06/01/1908	Little Lost River
33-00070	2.8	10/01/1906	Spring Creek
33-00071	3.2	03/15/1909	Spring Creek
33-00072	.8	05/01/1908	Little Lost River
33-00073	6.4	04/01/1912	Spring Creek
33-00074	1.6	08/06/1913	Little Lost River
33-00076	6.8	04/01/1913	Little Lost River
33-00078	3.2	10/15/1913	Little Lost River
33-00079	1.6	04/01/1912	Little Lost River
33-00080	.8	05/01/1908	Spring Creek
33-00081	.8	05/01/1908	Spring Creek
33-00082	.8	05/01/1908	Spring Creek
33-02007	2.9	02/15/1909	Little Lost River
33-02008	6.4	06/12/1909	Spring Creek
	41.3		

Soil Root Zone Storage Right

Water Right No.	Acre-Feet	Priority	Source
33-02133	2,960	06/02/1949	Little Lost River Spring Creek

7. The late priority surface water rights listed in Finding 6 could only be delivered to Hawley during high water flows, however, and there was insufficient surface water to irrigate the Knollin Ranch. Hawley subsequently obtained two licenses to irrigate the Knollin and Bird Ranches with ground water, numbered 33-02057 and 33-02083. The ground water rights for the Knollin and Bird Ranches are described as follows:

Water Right No.	CFS	Priority	Source
33-02057	24.0	02/01/1950	8 wells # 1-8
33-02083	5.0	08/23/1957	8 wells #1-8

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8. In addition, ground water rights were also perfected for the Frew Place, which Sage Willow acquired from David and Terry Hawley. The Frew Place water rights are listed below:

Water Right No.	CFS	Priority	Source
33-02086	4.1	01/12/1959	well # 13
33-07018	3.26	09/12/1972	well # 12

9. Finally, Hawley and some of his contemporary relatives obtained patents for two parcels of federal property pursuant to the Desert Land Entry Act. Two licenses to appropriate ground water were issued by the Department for these parcels. License no. 33-02091 was perfected for irrigation of the Homestead Place. License no. 33-02090 was perfected for irrigation of the North of Road Place. The following describes components of these rights:

Water Right No.	CFS	Priority	Source
33-02090	5.93	12/21/1959	well # 11
33-02091	4.36	01/22/1960	well on Bird Ranch

10. The places of use and points of diversion prior to Sage Willow's acquisition of the water rights described in the preceding paragraphs are depicted on the map labeled as applicant's exhibit no. 1"a".

11. Sage Willow filed application for transfer nos. 4221, 4222, 4223, 4224, 4225, 4226 & 4227, proposing to change the place of use for all of the rights listed in the preceding paragraphs. The multiple applications for transfer were filed to define portions of the water rights that would be appurtenant to each of seven independent delivery systems. Application nos. 4221, 4222 and 4223 propose the irrigation of land primarily north of the original Knollin Ranch with pressurized circular pivots. Application nos. 4224, 4225, 4226 and 4227 propose gravity irrigation of other land. The proposed places of use are depicted on a map labeled as applicant's exhibit no. 1"b". For further clarity, a map depicting the system (or place of use) described by each of the applications is attached. The original and proposed places of use described in the applications are not restated in this decision because of their size and complexity.

12. A geologic formation near the confluence of the Little Lost River and Spring Creek impedes the southward flow of ground water in the underlying aquifer, causing the ground water and surface water to merge in the southern half of the Knollin Ranch. The Little Lost River loses water to the underground aquifer above the Knollin Ranch, but as the ground water and surface water merge, the Little Lost River and Spring Creek gain water as they flow through the

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Knollin Ranch. The Little Lost River continues to gain water downstream several miles to the Canal Co. diversion.

13. The Little Lost River and the aquifer underlying the Little Lost River Basin downstream of the Knollin Ranch are dependent on water flows which pass the Knollin Ranch, either on the surface or underground.

14. The Hawley wells were drilled into the shallow portion of the aquifer which is hydrologically connected to the surface water. There is a direct hydrologic connection between the water pumped by the Hawley wells and the surface water that flows downstream into the Little Lost River below the Knollin Ranch.

15. Vance Hawley, a son of Slim Hawley, grew up in the Little Lost Valley and helped farm the Knollin and Bird Ranches as a youth, although he did not reside on the Knollin Ranch. After attending college, Vance Hawley returned and assisted in farming the property from 1970 through 1978. During these eight (8) years, he did not manage the farm but resided on the Knollin Ranch. From 1978 through 1980, he leased the Knollin Ranch property. After the lease expired, he was acquainted with the operation of the farms until 1989, when the Knollin Ranch was sold to Sage Willow.

16. Vance Hawley was also aware of the operation of the Bird Ranch, the Homestead Place, the North of Road Place, and other surrounding lands.

17. Vance Hawley testified about the extent of beneficial use of water on the properties now owned by Sage Willow. He testified that the total number of acres irrigated on the Bird Ranch did not exceed 297 acres. He also testified that irrigation of individual parcels on the Knollin Ranch totaled 879 acres.

18. Vance Hawley testified that the Homestead Place, located just east of the Bird Ranch, was irrigated with water pursuant to license no. 33-02091 in the early 1960's until a patent of ownership was issued by the federal government. He testified that the land was converted back to early season dry range land and was never irrigated in the late 1960's, all of the 1970's, and the 1980's until Sage Willow bought the property.

19. Vance Hawley also stated that the North of Road Place, patented by his aunt and uncle and located north of the main east-west access road into the Knollin Ranch, was irrigated with water pursuant to license no. 33-02090 in the early 1960's until a patent of ownership was issued by the federal government. He testified that after the patent was issued, the property was converted back to early season dry rangeland. He testified that water had not been applied to the lands pursuant to license no. 33-02090 during the late 1960's, all of the 1970's, and the 1980's until the property was purchased by Sage Willow.

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20. James Mays, a lifelong resident of the Little Lost River Valley, testified he was familiar with both the Homestead Place and the North of Road Place and had not observed any irrigation on the Homestead Place or North of Road Place, at least until Sage Willow acquired the parcels.

21. Vance Hawley drew the boundaries of the various parcels comprising the Sage Willow property as depicted on protestant's exhibit no. 3 and estimated the number of acres irrigated during his acquaintance with the property. The estimate includes lands irrigated with both surface water and ground water. He estimated that no more than 1,176 acres were irrigated within the boundaries of the Knollin Ranch and Bird Ranch.

22. The testimony of Vance Hawley is the most credible evidence regarding the traditional use of water on the entire Sage Willow land holdings before 1989.

23. Terry Scanlan (Scanlan), an engineer and geologist hired by Mays, consulted aerial photographs and estimated that approximately 230 acres were irrigated in the Frew Place. This estimate is consistent with the irrigated acreage estimates prepared by Dr. Charles E. Brockway, P.E. (Brockway), a consultant hired by Sage Willow.

24. Scanlan also estimated that 1,182 acres were irrigated in the Knollin Ranch and the Bird Ranch, six more acres than estimated by Vance Hawley. Adding the 230 acres irrigated in the Frew Place, Scanlan estimated the total acreage irrigated prior to 1989 was 1,412 acres. Because of the six acre discrepancy between Vance Hawley's estimate and Scanlan's estimate, the difference will be resolved in favor of Sage Willow. A total of 1,412 acres were irrigated prior to 1989.

25. In 1989, Sage Willow purchased the Knollin Ranch, the Bird Ranch, the Homestead Place, and the North of Road Place. Jerry Pancheri was hired as the manager of the ranch and was instructed to apply the water to the land as efficiently as possible and to recommend changes to the system to more efficiently use the water.

26. Pancheri testified about his attempts to use the water and identified land irrigated during the years he managed the farm. Pancheri identified on protestant's exhibit no. 21 the lands which were irrigated in various years. He approximated the areas irrigated in several individual parcels, and the parties summed his estimates in their briefs as set forth below:

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Total Number of Acres Irrigated

Year	Sage Willow's Estimate	Mays' Estimate
1989	1,300	1,400
1990	1,560	1,740
1991	2,000	2,004
1992	2,130	2,100
1993	2,390	-----

27. During 1990 and 1991, Pancheri determined that several preexisting ponds located on the Knollin property should be repaired and filled with water. These ponds, when filled with water, contribute significant sub-water to the shallow aquifer and sub-irrigate some of the lower elevation pastures located on the Knollin Ranch.

28. Pancheri also determined that the lands within the Bird Ranch and the Homestead Place were the poorest agricultural lands of the Sage Willow holdings and recommended that the water rights appurtenant to the Bird Ranch and Homestead Place be transferred to other lands located north of the Knollin Ranch. These lands north of the Knollin Ranch were acquired by Jerry Pancheri, and subsequently by Sage Willow, through an exchange of lands with the Bureau of Land Management.

29. In October, 1990, Sage Willow, through its president Edmund Dumke, applied to transfer license no. 33-02091 (transfer no. 3785) from the Homestead Place to land located in the SE¼ of Section 1, T7N, R27E, and the SW¼ and SE¼ of Section 6, T7N, R28E, B. M. The transfer application was signed by Dumke as president of Sage Willow. Part 1 of the transfer application requests the applicant to "[d]escribe the effect on the land now irrigated if the place of use is changed pursuant to this transfer." Dumke responded that "[w]e will dry farm this old place of use." There was no response to question 10 in part 2 of the application which asks "To your knowledge, has any portion of this water right undergone a period of five (5) or more consecutive years of non-use?" By signing the application, Dumke asserted that "no one will be injured by such change and that the change does not constitute an enlargement in use of the original right."

30. Dumke testified at the hearing that he had no personal knowledge regarding license no. 33-02091. He did not personally know whether a well was located at the licensed point of diversion or if any irrigation had occurred pursuant to license no. 33-02091 on the licensed place of use. Dumke stated that he relied entirely on others to prepare the application.

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31. Harold Jones, an employee in the Department's Eastern Regional Office, testified that the Department relied on the representations made in the transfer application for a licensed right because no protests are filed. In reviewing the Sage Willow application for transfer no. 3785, the Department did not independently investigate the existence of a well and pump at the licensed point of diversion or diversion for beneficial use on the licensed place of use for license no. 33-02091.

32. Transfer no. 3785 was approved and allowed a change in the place of use for license no. 33-02091 from the Homestead Place to part of the North of Road Place. The transfer resulted in an overlap of license no. 33-02091 on the place of use for license no. 33-02090. One of the purposes of the pending transfers is to correct transfer no. 3785 by moving license no. 33-02091 to lands not already described as a place of use by license no. 33-02090.

33. In 1991, two new pivots (pivots 6 and 7) were installed on the lands in Sections 1 and 6, and irrigation commenced that same year. *(See* protestant's exhibit no. 13, 1991 Landsat Image, and testimony of Mr. Pancheri and Mr. Scanlan). Although the pivots were installed and operated in 1991, the record indicates transfer no. 3785, which authorized license no. 33-02091 to be used in Sections 1 and 6, was not approved until October of 1992.

34. Vance Hawley testified that lands owned by Hawley were flood irrigated, and many of the fields were only irrigated once during the season. When hay was harvested from these lands, only one half to one ton per acre of hay was harvested, compared to a full average harvest of approximately three tons per acre for the Little Lost River Valley.

35. Brockway was hired by Sage Willow in 1989 to conduct various studies regarding the Little Lost River Basin and its hydrologic and hydrogeologic characteristics, particularly with reference to the Sage Willow holdings. In preparation for the hearing, Brockway walked the Sage Willow property, noted existing ditches and the location of abandoned ditches thereon, and consulted aerial photography to determine the number of acres that could have been irrigated on the Sage Willow property. Brockway prepared applicant's exhibit no. 7 which lists the acreage owned by Sage Willow and estimates consumptive use prior to the Sage Willow purchase of the property. The consumptive use calculated represents consumption by crops irrigated by both sprinkler and flood applications and also includes consumption by bottom land and rangeland vegetation. Lands which showed some evidence of past irrigation, even though not irrigated at the time Sage Willow acquired the property, were assigned irrigation consumptive use values.

36. Brockway concluded that the consumptive use prior to the Sage Willow purchase was 10,192 acre-feet. He also testified that consumptive use increased approximately 760 acre-feet between 1989 and 1992, and will increase another 137 acre-feet if the applications for transfer are approved.

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37. Brockway also testified that the additional 137 acre-feet consumptive use would be a depletion, reducing stream flows to the Little Lost River by 0.20 cfs, but that the effect on the aquifer levels would not be detectable.

38. Scanlan combined Vance Hawley's recollection of water use with information derived from aerial photography and determined the total number of acres traditionally irrigated in the Knollin, Bird and Frew properties. For purposes of comparison, in protestant's exhibit no. 15 Scanlan grouped lands by the same classifications as Brockway and applied the same consumptive use values to estimate a consumptive use prior to Sage Willow acquisition. Scanlan estimated a consumptive use of the 9,077 acre-feet. Based on allegations of nonuse on the Homestead Place (license no. 33-02091) and the North of Road Place (license no. 33-02090), Scanlan concluded the approval of these transfers would increase consumptive use by 1,504 acre-feet annually from the pre-1989 consumptive use values.

39. In protestant's exhibit no. 20, Scanlan disagreed with the consumptive values for crops irrigated with surface water used by Brockway in applicant's exhibit no. 7 and reduced the initial consumptive use values by 20 percent to account for the testimony of Vance Hawley regarding reduced crop harvest. He calculated a pre-1989 consumptive use of 8,273 acre-feet. He estimated consumptive use would increase by 1,809 acre-feet after the transfer is approved.

40. The assumptions by Scanlan are supported by direct evidence and testimony presented by Vance Hawley and are consistent with a careful review of aerial photography. These factors provide a more credible estimate of the acres historically irrigated and the historical total consumptive use.

41. Protestant's exhibit no. 18 proposes pro rata reductions in flow rates and acreage irrigated for each of the applications based on a ratio between the licensed places of use and the historical places of use as established by Vance Hawley. Despite detailed consumptive use calculations by two expert witnesses, Mays' proposal is based solely on irrigated acreage comparisons, not consumptive use comparisons.

42. Don Isham, a prior officer of the Canal Co., testified that to his knowledge, the later in time surface water rights alleged to be owned and proposed for transfer by Sage Willow have been delivered to the Canal Co. for decades. He testified that although the application for transfer that moved the water from the Knollin Ranch to the Canal Co. only included the early in time rights, the Canal Co. was entitled to the rights claimed by Sage Willow because of the long history of delivery.

43. The watermaster for the Little Lost River testified that in 1993, he delivered some of the surface water rights claimed by Sage Willow to Sage Willow.

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CONCLUSIONS OF LAW

1. The parties agree about most of the facts pertaining to the traditional use prior to Sage Willow's acquisition of the property and the expanded use of Sage Willow following its acquisition. There is some disagreement regarding the consumptive use calculations of the expert witnesses and which consumptive use numbers are most accurate. Both parties admit, however, that Sage Willow's proposal will increase the consumptive use on the Sage Willow property.

2. The first issue to be resolved is whether all or portions of the original water rights were lost by abandonment or forfeiture. License nos. 33-02090 and 33-02091 were forfeited because of non-use for over 20 years. Forfeiture was established by clear and convincing evidence.

3. One of the most difficult issues is the status of transfer no. 3785. The application for transfer was incomplete and contained representations that were not correct. Dumke explicitly represented, by signing the affidavit, that the right had not been forfeited and that there would be no injury or enlargement as a result of the transfer. An integral portion of the application, asking whether the applicant knew of any continuous five year period of non-use, was left blank. The Department did not independently investigate the possibility of forfeiture. In addition, the applications for transfer now pending were filed to revise what was previously approved.

4. There is no evidence that Dumke or Sage Willow fraudulently misled the Department, or that the transfer is void because of fraud. Because the pending applications for transfer attempt to correct previously approved transfer no. 3785, and because there were misrepresentations and omissions of fact in the filing of application for transfer no. 3785, transfer no. 3785 should be voided. Furthermore, although there has been some development pursuant to transfer no. 3785, Sage Willow constructed two of the pivots prior to approval of transfer no. 3785.

5. Because of the reasons set forth above, the finding of forfeiture should supersede the prior approval of transfer no. 3785.

6. The combined testimony of Vance Hawley and Terry Scanlan regarding the total place of use for the remainder of the Bird Ranch, the Knollin Ranch, and the Frew Place, establishes a historically irrigated acreage of 1,412 acres during a period of at least two decades.

7. The total number of acres authorized for irrigation pursuant to license nos. 33-02086 and 33-07018 is 230 acres. The total number of acres authorized for irrigation pursuant to license nos. 33-02057 and 33-02083 is 1,182 acres. Combined surface water and ground water irrigation should not exceed 1,412 acres, except for sub-irrigation. The total number of acres that

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can be irrigated by applying water (surface water and ground water) directly to the land is 1,412 acres. The right to irrigate any additional lands described by ground water and surface water rights in excess of 1,412 acres has been forfeited, except for benefits derived by subwater.

8. Applicants do not admit forfeiture, but emphasize the doctrine of resumption of use as a defense against forfeiture. Several Idaho court cases generally mention the resumption of use defense to forfeiture. Only two of the decisions find that there may have been a forfeiture and that resumption of use might resurrect the water right.

9. Wagoner v. Jeffrey, 66 Idaho 455, 162 P.2d 400 (1945) was a dispute between a water right holder who had perfected rights in wells located on federal property and another settler who subsequently obtained a patent to the property where the wells were located. More than five years of non-use elapsed. When the water right holder unsuccessfully attempted to resume his use, the subsequent settler, even though he had no water rights in the wells, attempted to block the resumption by alleging forfeiture. In Wagoner, there were no junior water right holders claiming a right to the water which was being diverted out of the wells. The resumption doctrine was applied because there was no intervening claim to the water.

10. In Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952), a water user attempted to transfer water rights diverted from the Big Lost River approximately 20 miles downstream. The protestants alleged the rights were forfeited. Unrefuted evidence established that the water right had not been applied to the original place of use for several decades, but the evidence also established that at least for a portion of that period, water was delivered to the proposed place of use and assessments for the delivery of the water had been paid. In its holding, the Idaho Supreme Court said:

> Thus, bills were rendered and payments made by respondent for water delivered by the District. The District showed no water was delivered to [the old place of use], so the water must have been, and two of the exhibits show the water was, delivered to the [proposed place of use].

73 Idaho at 159.

11. The court seemed to be concluding that the water right was not forfeited because it was delivered to other lands. Nevertheless, the court subsequently stated, quoting Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944):

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> Although statutory abandonment of a water right has occurred, forfeiture is not effective if after five-year period original owner or appropriator resumes the use of the water prior to claim of right by a third party.

73 Idaho at 160.

12. The court explained the quotation with two statements, the first implying the right had been forfeited but resumed, and the second implying the right had never been forfeited:

> No one claims this particular decreed water by adverse possession and clearly, so far as this proceeding is concerned, it was in part at least used by respondent on some of his Arco lands before it was claimed it had been forfeited.
>
> The trial court was justified in holding that water had been so used by respondent that he had not abandoned or forfeited his water rights . . . .

73 Idaho at 160.

13. More importantly, the court did not consider or discuss injury to other water rights that might be caused by the resumption of use.

14. Other cases discuss the resumption defense, but decide that the right was not forfeited. Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944) (held not abandoned and was not a resumption case); Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937) (held burden of proof on the party alleging forfeiture not satisfied). Another case, Jenkins v. State Dept. of Water Resources, 103 Idaho 384, 647 P.2d 1256 (1982), held that the right was forfeited but proof was not offered regarding the resumption of use defense.

15. The law does not require that a claim of ownership to the specific water delivered by a specific water right must be filed prior to resumption of use to prevent the resumption. Language in Zezi that the use must be resumed prior to other appropriations and the discussion of movement up the priority ladder by junior right holders in Jenkins narrowly limits when a water right can be resumed after it is forfeited.

16. Recognition of the resumption of use defense would frustrate the doctrine of prior appropriation in streams where: (1) junior appropriators have established water rights and have relied on water not diverted by a senior user; or (2) in this case, where senior surface water users and other water right holders have relied on related ground water not diverted by Sage Willow's predecessor. While the prior appropriation doctrine is crafted to protect water users by delivering in order of priority, its requirement of beneficial use of water prevents a water right holder from

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retaining unused water rights for a long period of time and then reasserting the right to the detriment of other right holders.

17. Other users are not required to assert a specific claim to the water rights or water represented by rights held by the user attempting to resume his use. The existence or establishment of a junior water right is sufficient claim to the water. The resumption doctrine cannot restore portions of water rights forfeited by Sage Willow's predecessor in interest to the detriment of other water right holders.

18. Detailed consumptive use comparisons by both parties implicitly invite the Department to microscopically look at the application of water upon the place of use and restrict the future consumptive use based on an estimated consumptive use. Nevertheless, protestant's exhibit no. 18 proposes to reduce water use proposed by the applications for transfer based solely on historical acres irrigated, not based on consumptive use. The Department declines, in this case, to limit the total diversion based on increased consumptive use which may result from improved efficiency of water application. Total diversion volumes and consumptive uses values will be assigned according to Department standards. Flow rates will be reduced to a rate of 0.02 cfs per acre unless Sage Willow can demonstrate the need for additional diversion rate.

19. These applications for transfer can only be approved if the applicant identifies 1,412 acres to which water will be physically diverted and applied by some means other than subirrigation. Annual volume for physical diversion, delivery, and application should be limited to 4,942 acre feet. Annual consumptive volume will be limited to 3,530 acre feet. The diversion rate will be limited to 28.24 cfs.

20. A plan identifying 1,412 acres that will be irrigated together with the individual water rights that will be appurtenant to the acreage must be submitted to the Department. The Department will then allocate volumes and diversion rates to each right.

21. As part of the proposal, the applicant may continue to derive the benefits of subirrigation from ponds and return flows to the Little Lost River, provided the ponds or the return channels are not reconstructed to increase subirrigation beyond the acreage historically subirrigated. Water shall not be diverted from ground water for the sole purpose of filling ponds or subirrigating. Surface water can only be diverted for root zone storage (presumably subirrigation) pursuant to license no. 33-02133 when all prior surface water rights are being satisfied.

22. Water rights cannot be obtained by adverse possession if the rights are being delivered by a watermaster in a water district. Idaho Code § 42-607.

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23. The Canal Co. is not entitled to ownership of water rights owned by Sage Willow.

ORDER

IT IS HEREBY ORDERED that transfer no. 3785 is VOIDED.

IT IS FURTHER ORDERED that license no. 33-02090 and license no. 33-02091 and portions of all other rights diverted and directly applied to lands in excess of 1,412 acres are FORFEITED.

IT IS FURTHER ORDERED that application for transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227 are **CONDITIONALLY APPROVED** provided the applicant does not irrigate more than 1,412 acres within the place of use proposed by the applications, and the applicant complies with the following:

1. A plan must be submitted to the Department of Water Resources within 56 days of the final disposition of this dispute or after any final appeal period has run identifying 1,412 acres that will be irrigated together with the individual water rights that will be appurtenant to the acreage. The plan must also be provided to the Protestants for review and comment. Comments from the Protestants must be submitted to the Department and to the Applicant one month following submittal of the plan. A hearing may be requested by either party within sixty (60) days of submittal of the plan.

2. Failure to submit the plan is cause for the Department to revoke its conditional approval of the application for transfer.

IT IS FURTHER ORDERED that the Department will issue another recommended decision if additional testimony is required following submittal of the plan.

DATED this 8th day of April, 1996.

KARL J. DREHER, Director

Attachment

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WATER RIGHT NUMBER	NAME	CFS
33-02057	Split into 33-02057A/B/C/D/E/F by Trans. Nos. 4221 through 4226.	
33-02057A	SAGEWILLOW INC	5.06
33-02057B	SAGEWILLOW INC	5.50
33-02057C	SAGEWILLOW INC	2.13
33-02057D	SAGEWILLOW INC	1.94
33-02057E	SAGEWILLOW INC	4.34
33-02057F	SAGEWILLOW INC	5.03

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

COPY

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226 AND 4227 IN THE NAME OF SAGE WILLOW, INC.	)))))	**FINAL ORDER**

INTRODUCTION

Sage Willow, Inc. (Sage Willow) filed seven applications for transfer with the Idaho Department of Water Resources (Department). The applications propose changing the place of use for several surface and ground water rights. The multiple applications were filed to define portions of various ground water and surface water rights that would be appurtenant to each of seven independent delivery systems. A map depicting the system described by each application is attached at the end of this decision. Some of the applications were protested by the Blaine County Canal Co. (the Canal Co.), James Mays, Mays Land and Livestock Co. (collectively referred to as "Mays") and Simplot Land and Development Co. Simplot Land and Development Co. subsequently withdrew its protest.

After expiration of the protest period Mays discovered they had not protested all of the applications for transfer filed by Sage Willow. Mays filed a motion to amend the protest to include protests opposing all of the applications for transfer and to add issues of forfeiture and enlargement to the issues raised by the original protests. The motion to amend was granted prior to the hearing.

On January 18, 1995, the Canal Co. filed a motion to amend its protests. The hearing officer initially denied the motion to amend from the Canal Co. because it was untimely. At the hearing, however, the hearing officer revoked the order denying the motion to amend and granted the motion to amend. The Canal Co. and Mays participated as full parties in all the proceedings. A hearing regarding the protest was conducted on January 31 and February 1, 1995.

A recommended order was issued on May 22, 1995. Counsel for Sage Willow timely filed a petition for reconsideration that the hearing officer granted. The order granting reconsideration limited reconsideration to two (2) issues:

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1. Whether use of water pursuant to water right no. 33-02091, although previously transferred/abandoned, should be recognized because of the approval of transfer no. 3785, which was approved in 1992.

2. Whether the number of acres authorized for irrigation pursuant to rights nos. 33-02086 and 33-07018 should have been reduced solely on the basis of Terry Scanlan's testimony.

Briefs were to be filed regarding the petition for reconsideration on or before July 14, 1995.

Sage Willow requested a transcript of the record, and after issuance of the order granting reconsideration, the parties agreed to delay briefing until the transcript was prepared. The parties both filed briefs on or about September 1, 1995.

An amended recommended order (ARO) was issued on November 7, 1995. Sage Willow filed a second petition for reconsideration which was denied.

Sage Willow filed exceptions to the amended recommended order, and Mays filed a brief in response to the exceptions. The exceptions will be discussed in the following analysis portion of the decision. Findings of fact, conclusions of law and the order will follow the analysis section.

ANALYSIS

Sage Willow filed exceptions to the amended recommended order as follows:

(1) The ARO misinterprets the resumption of use doctrine and its application to any portion of the water rights that may have been unused for a period of five or more years, but have since been resumed;

(2) The ARO improperly concludes that transfer number 3785 can, and should, be voided; and

(3) The ARO improperly concludes that only 230 acres have historically been irrigated on the Frew Place, rather than 260.

Resumption of Use

Sage Willow alleges several elements must be satisfied before a resumption of use after forfeiture can be defeated:

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1. A new water right must be established by appropriation that will prevent a resumption of use.

2. A new water right established by appropriation to prevent a resumption of use must be established after the five (5) year forfeiture period has run. Water rights perfected with dates of priority between the priority of the alleged forfeited right and the date when forfeiture occurred cannot prevent a resumption of use.

3. Use of water must be by adverse possession. There must be open and notorious use, and the notice must be directed toward the original owner.

4. A person wanting to appropriate the forfeited water cannot simply sit by and wait, holding a water right in the ladder of priority. He is required to do something affirmative once the right in question has been forfeited.

5. A forfeited water right can be resumed until it is declared forfeited by a competent authority.

There must be an appropriation of water with an intervening priority date that will be injured by the resumption to prevent a resumption of use. All of the other criteria proposed by Sage Willow are inconsistent with the prior appropriation doctrine.

If a new appropriation is required, a water user holding a water right with a date of priority between the priority of the alleged forfeited right and the date of forfeiture who wanted to improve his water supply would be required to file another application for appropriation. If the new appropriation assumes its place in the order of priority, water users with earlier in time priority water rights would receive the excess water. This result would require that a water user would be required to file for a new appropriation simply as a matter of form to receive water which he would have received pursuant to the priority system anyway. This is promoting form over substance.

Idaho Code § 42-222(2) states that when a water right is forfeited the water right reverts back to the state and is subject to appropriation. If the water reverts back to the state upon forfeiture, and is subject to appropriation, the original owner has no title to a water right that can be acquired through adverse possession. To allow a person to gain ownership of a water right after it has been forfeited is inconsistent with the doctrine of prior appropriation.

Sage Willow argues that the owner of an existing water right with a date of priority later than the alleged forfeited right cannot sit and wait to defeat a resumption of use, but must act affirmatively as described above. This theory would require a water right holder on a stream to continuously monitor the uses of water of all the users up and down a river, hoping to improve his

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water supply. When continuous monitoring reveals a forfeited right, he must file an application for a new appropriation of water, in addition to somehow taking the water of another person openly and notoriously, even though he may be diverting that water several miles upstream or downstream from the point of diversion for the water right alleged to be forfeited. This kind of requirement is outside of the law. A water user who has forfeited his water rights should not be allowed to resume the right where junior users have come to rely on the water made available as a result of the forfeiture.

Finally, Sage Willow argues that a resumption of use cannot be defeated unless forfeiture is declared prior to the time the resumption occurs. Recognition of this theory would result in a race for declaration of forfeiture prior to any resumption.

Sage Willow analyzes the Idaho cases on resumption of use along with cases from other jurisdictions. Sage Willow argues convincingly that Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952) recognizes resumption of use for a right diverted from a fully appropriated stream long after the forfeiture period had expired. In Boyer, the protestants produced evidence that the water rights allegedly forfeited had not been used for several decades. The evidence also showed that use of water under the right had been resumed only a short time period prior to consideration of the application for transfer by the State Reclamation Department (predecessor to theDepartment of Water Resources). Sage Willow argues that the hearing officer misinterpreted the case and its finding by implying that the right may never have been forfeited because the water was used on a different place of use. Sage Willow argues that the right was forfeited, but resumed, even though there were intervening water rights.

The Boyer case leaves some questions about when a forfeited right can be resumed and whether some of the earlier requirements raised by Sage Willow, such as adverse possession, must be proven. Rather than argue about the interpretation of the language and whether the water right was forfeited and resumed or was never forfeited, the better analysis is that Boyer never addressed any issues of injury to other water rights because of the resumption of use. Boyer did discuss the injury to other water users that might occur as a result of Boyer not being required to pay assessments once the water right was moved out of the Big Lost Irrigation District canal system.

The issue of injury is central to the considerations of the Department in reviewing an application for transfer. There was uncontroverted evidence presented at the hearing that Sage Willow's resumption of use would enlarge the traditional use of water on the lands now owned by Sage Willow, would deplete stream flows in the Little Lost River, and would make further demands on the ground water resources of the basin. The Department will not ignore the injurious effects on other water users that will be caused by Sage Willow's diversion and use of water beyond the traditional use of water on the lands acquired by Sage Willow. The original holding regarding the resumption of use in the amended recommended order will not be changed.

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Voiding of Transfer No. 3785

The ARO held that transfer no. 3785, previously approved by the Department in 1992, should be voided. The transfer approved moving the point of diversion and place of use for water right no. 33-02091. At the hearing on the applications for transfer now pending, evidence was presented to show that water right no. 33-02091 was forfeited prior to the approval of transfer no. 3785.

The ARO recognized administrative *res judicata*. The Department should not entertain duplicative "claims" or "issues" except under extraordinary circumstances. The purpose for *res judicata* before administrative agencies is similar to the purpose before the courts: (1) to prevent litigation of the same matter with inconsistent results; (2) to avoid repetitious litigation; and (3) to avoid the harassment of repetitive claims. The Department should exercise restraint in disturbing a prior decision. Nonetheless, the Department of Water Resources is charged not only with deciding what should be done where there are disputed proposals for use of water before the Department, but also with general oversight of the water resources of the state of Idaho. Because of its oversight responsibility, the Department should have wider latitude in setting aside a prior decision.

Sage Willow asserts that the ARO did not sufficiently analyze *res judicata*, and its component parts. The Idaho Supreme Court has adopted the Restatement (Second) Judgments (1982). *Res judicata* is divided into two component parts, claim preclusion and issue preclusion. Claim preclusion prevents a party from pursuing other remedies "with respect to all or any part of the transaction . . out of which the action arose." Aldape v. Akins, 105 Idaho 254, 259, 668 P.2d 130 (1983). Issue preclusion, or collateral estoppel, "bars the relitigation of issues actually adjudicated and essential to the judgment in a prior litigation between the parties." Aldape at 256.

The most compelling reason for voiding transfer no. 3785 and reviewing water right no. 33-02091 against the test of forfeiture is set forth in Section 28 of the Restatement:

> Although an issue is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, relitigation of the issue in a subsequent action between the parties is not precluded in the following circumstances:
>
> (5) There is a clear and convincing need for a new determination of the issue (a) because of the potential adverse impact of the determination on the public interest or the interest of persons not themselves parties in the initial action, (b) because it was not sufficiently foreseeable at the time of the initial action that the issues would arise in the context of a subsequent action, or (c) because the parties

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sought to be precluded, as a result of the conduct of his adversary or other special circumstances, did not have an adequate opportunity or incentive to obtain a full and fair adjudication in the initial action.

Restatement (Second) of Judgments § 28.

At the hearing for the now pending transfers, the evidence showed that there would be adverse impacts to the public interest and interests of water users not parties to the initial action if the approval of transfer no. 3785 is not reconsidered.

Sage Willow criticizes the Department for discussing some equitable reasons why transfer no. 3785 should be reconsidered. These reasons included a short time period since the approval of transfer no. 3785, the expenditure of money by Sage Willow prior to approval of transfer no. 3785, the attempt in the pending transfers to correct a misdescription of the place of use in the approval of transfer no. 3785, and the omissions regarding questions of forfeiture on the application for transfer form. Sage Willow alleges these facts should not be considered by the Department.

Sage Willow supplemented its submittal of legal authority on January 2, 1996. In the supplemental brief, Sage Willow quotes Keller v. Magic Water Co., 92 Idaho 276, 441 P.2d 725 (1968). The Keller court states that principles of equity should be applied in determining whether issues before the Department should be reconsidered. It raises three of those equitable issues: (1) the long period of time which had expired since the permit approval, (2) the substantial sums of money which had been expended by the permit holder in reliance on the approval, and (3) the issue of whether other water users were damaged by the omission of the financial information. Two of the three equitable issues raised by the Keller court, the injury issue and the expiration of time issue, are resolved in Mays' favor. Only the expenditure of money by Sage Willow is a consideration in its favor, and Sage Willow's expenditure occurred prior to the transfer approval. Furthermore, there are other equitable reasons briefly discussed above why this reconsideration does not impose an unreasonable hardship on Sage Willow. Issue preclusion does not prohibit the Department from voiding transfer no. 3785 and reconsidering the issue of forfeiture.

Whether the Department of Water Resources characterizes the issues before it as claim preclusion or issue preclusion, the result is the same. The Department should not be barred from reconsidering a prior decision which is inconsistent with the general statutory scheme of protecting other water users. It also should not be barred from reconsidering a prior decision where there are extraordinary reasons for the reconsideration.

Sage Willow also argues that the Department is prohibited from voiding or reconsidering transfer no. 3785 because of equitable estoppel. Both parties agree that equitable estoppel can apply to government agencies acting in their sovereign capacity under extraordinary

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circumstances. In addition to applying only in extraordinary circumstances, the proponent of equitable estoppel must establish that the Department either concealed or falsely represented facts with actual or constructive knowledge of the truth. Sage Willow did not prove that the Department concealed or falsely represented the facts. Equitable estoppel does not apply to the Department in this case.

Finally, Idaho Code § 42-350 states:

> If the director of the department of water resources finds, on the basis of available information *at any time after a license is issued*, that the licensee has ceased to put the water to a beneficial use for a period of five (5) continuous years . . . then the director of the department of water resources may issue . . . an order to show cause before the director of the department . . . why the director of the department should not revoke said license . . . . (Emphasis added).

While this statute directs a specific administrative process and does not discuss the effect of a transfer approval, it supports a holding that the director can review forfeiture issues, even after a transfer approval has been granted.

Forfeiture of a Portion of the Frew Place of Use

In the ARO, the hearing officer held that the place of use for water right nos. 33-02086 and 33-07018 should be limited to 230 acres because of the testimony of Terry Scanlan (Scanlan) and corroborating evidence by Charles Brockway (Brockway), the expert for Sage Willow. Sage Willow states that Brockway's testimony and exhibits do not corroborate Scanlan's testimony. Sage Willow recites facts regarding the purchase of the water rights and the land by Sage Willow which were not introduced into evidence at the hearing and were not available to the hearing officer in reaching his decision. The number of acres in the Frew Place, authorized by water right nos. 33-02086 and 33-07018, will be limited to 230 acres.

Based on the above analysis, the Director issues the following Findings of Fact, Conclusions of Law and Order.

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FINDINGS OF FACT

1. In 1989, Sage Willow acquired a ranch, located near the confluence of the Little Lost River and Spring Creek, commonly known as the Knollin Ranch. At the same time, Sage Willow also acquired other parcels contiguous to or nearby the Knollin Ranch.

2. One of the other parcels is located approximately 1½ miles northwest of the Knollin Ranch. The parcel is divided into two pieces by the east 16th line of Sec. 35, T27N, R28E, B.M. The property located on the west side of the 16th line is commonly known as the Bird Ranch. The property located east of the 16th line is commonly known as the Homestead Place.

3. Another parcel is located on the north side of an east-west county road, which was the northern boundary of the original Knollin Ranch, and will herein be referred to as the "North of Road Place."

4. In 1993, Sage Willow acquired additional land contiguous to and northeast of the Knollin Ranch from David and Terry Hawley (the Frew Place).

5. The Knollin Ranch was originally owned by A.J. Knollin. Several surface water rights were appurtenant to the Knollin Ranch. Because of financial difficulties, A.J. Knollin conveyed his interest in the Knollin Ranch to the first mortgage holder in 1942. In the same year, the Canal Co. purchased the Knollin Ranch from the mortgage holder. During the late 1940's, the Canal Co. sold the ranch land to L.R. "Slim" Hawley (Hawley). The earliest priority water rights appurtenant to the Knollin Ranch were not conveyed to Hawley, however, but were retained by the Canal Co. and later transferred to downstream lands. The Canal Co. rights are some of the earliest water rights diverted from the Little Lost River, bearing priority dates of 1879 to 1891.

6. Several late priority surface water rights remained appurtenant to or were developed for use on the Knollin Ranch. These later rights are described below:

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Irrigation Rights

Water Right No.	CFS	Priority	Source
33-00069	3.2	06/01/1908	Little Lost River
33-00070	2.8	10/01/1906	Spring Creek
33-00071	3.2	03/15/1909	Spring Creek
33-00072	.8	05/01/1908	Little Lost River
33-00073	6.4	04/01/1912	Spring Creek
33-00074	1.6	08/06/1913	Little Lost River
33-00076	6.8	04/01/1913	Little Lost River
33-00078	3.2	10/15/1913	Little Lost River
33-00079	1.6	04/01/1912	Little Lost River
33-00080	.8	05/01/1908	Spring Creek
33-00081	.8	05/01/1908	Spring Creek
33-00082	.8	05/01/1908	Spring Creek
33-02007	2.9	02/15/1909	Little Lost River
33-02008	6.4	06/12/1909	Spring Creek
	41.3		

Soil Root Zone Storage Right

Water Right No.	Acre-Feet	Priority	Source
33-02133	2,960	06/02/1949	Little Lost River Spring Creek

7. The late priority surface water rights listed in Finding 6 could only be delivered to Hawley during high water flows, however, and there was insufficient surface water to irrigate the Knollin Ranch. Hawley subsequently obtained two licenses to irrigate the Knollin and Bird Ranches with ground water, numbered 33-02057 and 33-02083. The ground water rights for the Knollin and Bird Ranches are described as follows:

Water Right No.	CFS	Priority	Source
33-02057	24.0	02/01/1950	8 wells # 1-8
33-02083	5.0	08/23/1957	8 wells #1-8

8. In addition, ground water rights were also perfected for the Frew Place, which Sage Willow acquired from David and Terry Hawley. The Frew Place water rights are listed below:

Water Right No.	CFS	Priority	Source
33-02086	4.1	01/12/1959	well # 13
33-07018	3.26	09/12/1972	well # 12

9. Finally, Hawley and some of his contemporary relatives obtained patents for two parcels of federal property pursuant to the Desert Land Entry Act. Two licenses to appropriate ground water were issued by the Department for these parcels. License no. 33-02091 was perfected for irrigation of the Homestead Place. License no. 33-02090 was perfected for irrigation of the North of Road Place. The following describes components of these rights:

Water Right No.	CFS	Priority	Source
33-02090	5.93	12/21/1959	well # 11
33-02091	4.36	01/22/1960	well on Bird Ranch

10. The places of use and points of diversion prior to Sage Willow's acquisition of the water rights described in the preceding paragraphs are depicted on the map labeled as applicant's exhibit no. 1"a".

11. Sage Willow filed application for transfer nos. 4221, 4222, 4223, 4224, 4225, 4226 & 4227, proposing to change the place of use for all of the rights listed in the preceding paragraphs. The multiple applications for transfer were filed to define portions of the water rights that would be appurtenant to each of seven independent delivery systems. Application nos. 4221, 4222 and 4223 propose the irrigation of land primarily north of the original Knollin Ranch with pressurized circular pivots. Application nos. 4224, 4225, 4226 and 4227 propose gravity irrigation of other land. The proposed places of use are depicted on a map labeled as applicant's exhibit no. 1"b". For further clarity, a map depicting the system (or place of use) described by each of the applications is attached. The original and proposed places of use described in the applications are not restated in this decision because of their size and complexity.

12. A geologic formation near the confluence of the Little Lost River and Spring Creek impedes the southward flow of ground water in the underlying aquifer, causing the ground water and surface water to merge in the southern half of the Knollin Ranch. The Little Lost River loses water to the underground aquifer above the Knollin Ranch, but as the ground water and surface water merge, the Little Lost River and Spring Creek gain water as they flow through the

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Knollin Ranch. The Little Lost River continues to gain water downstream several miles to the Canal Co. diversion.

13. The Little Lost River and the aquifer underlying the Little Lost River Basin downstream of the Knollin Ranch are dependent on water flows which pass the Knollin Ranch, either on the surface or underground.

14. The Hawley wells were drilled into the shallow portion of the aquifer which is hydrologically connected to the surface water. There is a direct hydrologic connection between the water pumped by the Hawley wells and the surface water that flows downstream into the Little Lost River below the Knollin Ranch.

15. Vance Hawley, a son of Slim Hawley, grew up in the Little Lost Valley and helped farm the Knollin and Bird Ranches as a youth, although he did not reside on the Knollin Ranch. After attending college, Vance Hawley returned and assisted in farming the property from 1970 through 1978. During these eight (8) years, he did not manage the farm but resided on the Knollin Ranch. From 1978 through 1980, he leased the Knollin Ranch property. After the lease expired, he was acquainted with the operation of the farms until 1989, when the Knollin Ranch was sold to Sage Willow.

16. Vance Hawley was also aware of the operation of the Bird Ranch, the Homestead Place, the North of Road Place, and other surrounding lands.

17. Vance Hawley testified about the extent of beneficial use of water on the properties now owned by Sage Willow. He testified that the total number of acres irrigated on the Bird Ranch did not exceed 297 acres. He also testified that irrigation of individual parcels on the Knollin Ranch totaled 879 acres.

18. Vance Hawley testified that the Homestead Place, located just east of the Bird Ranch, was irrigated with water pursuant to license no. 33-02091 in the early 1960's until a patent of ownership was issued by the federal government. He testified that the land was converted back to early season dry range land and was never irrigated in the late 1960's, all of the 1970's, and the 1980's until Sage Willow bought the property.

19. Vance Hawley also stated that the North of Road Place, patented by his aunt and uncle and located north of the main east-west access road into the Knollin Ranch, was irrigated with water pursuant to license no. 33-02090 in the early 1960's until a patent of ownership was issued by the federal government. He testified that after the patent was issued, the property was converted back to early season dry rangeland. He testified that water had not been applied to the lands pursuant to license no. 33-02090 during the late 1960's, all of the 1970's, and the 1980's until the property was purchased by Sage Willow.

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20. James Mays, a lifelong resident of the Little Lost River Valley, testified he was familiar with both the Homestead Place and the North of Road Place and had not observed any irrigation on the Homestead Place or North of Road Place, at least until Sage Willow acquired the parcels.

21. Vance Hawley drew the boundaries of the various parcels comprising the Sage Willow property as depicted on protestant's exhibit no. 3 and estimated the number of acres irrigated during his acquaintance with the property. The estimate includes lands irrigated with both surface water and ground water. He estimated that no more than 1,176 acres were irrigated within the boundaries of the Knollin Ranch and Bird Ranch.

22. The testimony of Vance Hawley is the most credible evidence regarding the traditional use of water on the entire Sage Willow land holdings before 1989.

23. Terry Scanlan (Scanlan), an engineer and geologist hired by Mays, consulted aerial photographs and estimated that approximately 230 acres were irrigated in the Frew Place. This estimate is consistent with the irrigated acreage estimates prepared by Dr. Charles E. Brockway, P.E. (Brockway), a consultant hired by Sage Willow.

24. Scanlan also estimated that 1,182 acres were irrigated in the Knollin Ranch and the Bird Ranch, six more acres than estimated by Vance Hawley. Adding the 230 acres irrigated in the Frew Place, Scanlan estimated the total acreage irrigated prior to 1989 was 1,412 acres. Because of the six acre discrepancy between Vance Hawley's estimate and Scanlan's estimate, the difference will be resolved in favor of Sage Willow. A total of 1,412 acres were irrigated prior to 1989.

25. In 1989, Sage Willow purchased the Knollin Ranch, the Bird Ranch, the Homestead Place, and the North of Road Place. Jerry Pancheri was hired as the manager of the ranch and was instructed to apply the water to the land as efficiently as possible and to recommend changes to the system to more efficiently use the water.

26. Pancheri testified about his attempts to use the water and identified land irrigated during the years he managed the farm. Pancheri identified on protestant's exhibit no. 21 the lands which were irrigated in various years. He approximated the areas irrigated in several individual parcels, and the parties summed his estimates in their briefs as set forth below:

Total Number of Acres Irrigated

Year	Sage Willow's Estimate	Mays' Estimate
1989	1,300	1,400
1990	1,560	1,740
1991	2,000	2,004
1992	2,130	2,100
1993	2,390	-----

27. During 1990 and 1991, Pancheri determined that several preexisting ponds located on the Knollin property should be repaired and filled with water. These ponds, when filled with water, contribute significant sub-water to the shallow aquifer and sub-irrigate some of the lower elevation pastures located on the Knollin Ranch.

28. Pancheri also determined that the lands within the Bird Ranch and the Homestead Place were the poorest agricultural lands of the Sage Willow holdings and recommended that the water rights appurtenant to the Bird Ranch and Homestead Place be transferred to other lands located north of the Knollin Ranch. These lands north of the Knollin Ranch were acquired by Jerry Pancheri, and subsequently by Sage Willow, through an exchange of lands with the Bureau of Land Management.

29. In October, 1990, Sage Willow, through its president Edmund Dumke, applied to transfer license no. 33-02091 (transfer no. 3785) from the Homestead Place to land located in the SE¼ of Section 1, T7N, R27E, and the SW¼ and SE¼ of Section 6, T7N, R28E, B. M. The transfer application was signed by Dumke as president of Sage Willow. Part 1 of the transfer application requests the applicant to "[d]escribe the effect on the land now irrigated if the place of use is changed pursuant to this transfer." Dumke responded that "[w]e will dry farm this old place of use." There was no response to question 10 in part 2 of the application which asks "To your knowledge, has any portion of this water right undergone a period of five (5) or more consecutive years of non-use?" By signing the application, Dumke asserted that "no one will be injured by such change and that the change does not constitute an enlargement in use of the original right."

30. Dumke testified at the hearing that he had no personal knowledge regarding license no. 33-02091. He did not personally know whether a well was located at the licensed point of diversion or if any irrigation had occurred pursuant to license no. 33-02091 on the licensed place of use. Dumke stated that he relied entirely on others to prepare the application.

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31. Harold Jones, an employee in the Department's Eastern Regional Office, testified that the Department relied on the representations made in the transfer application for a licensed right because no protests are filed. In reviewing the Sage Willow application for transfer no. 3785, the Department did not independently investigate the existence of a well and pump at the licensed point of diversion or diversion for beneficial use on the licensed place of use for license no. 33-02091.

32. Transfer no. 3785 was approved and allowed a change in the place of use for license no. 33-02091 from the Homestead Place to part of the North of Road Place. The transfer resulted in an overlap of license no. 33-02091 on the place of use for license no. 33-02090. One of the purposes of the pending transfers is to correct transfer no. 3785 by moving license no. 33-02091 to lands not already described as a place of use by license no. 33-02090.

33. In 1991, two new pivots (pivots 6 and 7) were installed on the lands in Sections 1 and 6, and irrigation commenced that same year. *(See* protestant's exhibit no. 13, 1991 Landsat Image, and testimony of Mr. Pancheri and Mr. Scanlan). Although the pivots were installed and operated in 1991, the record indicates transfer no. 3785, which authorized license no. 33-02091 to be used in Sections 1 and 6, was not approved until October of 1992.

34. Vance Hawley testified that lands owned by Hawley were flood irrigated, and many of the fields were only irrigated once during the season. When hay was harvested from these lands, only one half to one ton per acre of hay was harvested, compared to a full average harvest of approximately three tons per acre for the Little Lost River Valley.

35. Brockway was hired by Sage Willow in 1989 to conduct various studies regarding the Little Lost River Basin and its hydrologic and hydrogeologic characteristics, particularly with reference to the Sage Willow holdings. In preparation for the hearing, Brockway walked the Sage Willow property, noted existing ditches and the location of abandoned ditches thereon, and consulted aerial photography to determine the number of acres that could have been irrigated on the Sage Willow property. Brockway prepared applicant's exhibit no. 7 which lists the acreage owned by Sage Willow and estimates consumptive use prior to the Sage Willow purchase of the property. The consumptive use calculated represents consumption by crops irrigated by both sprinkler and flood applications and also includes consumption by bottom land and rangeland vegetation. Lands which showed some evidence of past irrigation, even though not irrigated at the time Sage Willow acquired the property, were assigned irrigation consumptive use values.

36. Brockway concluded that the consumptive use prior to the Sage Willow purchase was 10,192 acre-feet. He also testified that consumptive use increased approximately 760 acre-feet between 1989 and 1992, and will increase another 137 acre-feet if the applications for transfer are approved.

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37. Brockway also testified that the additional 137 acre-feet consumptive use would be a depletion, reducing stream flows to the Little Lost River by 0.20 cfs, but that the effect on the aquifer levels would not be detectable.

38. Scanlan combined Vance Hawley's recollection of water use with information derived from aerial photography and determined the total number of acres traditionally irrigated in the Knollin, Bird and Frew properties. For purposes of comparison, in protestant's exhibit no. 15 Scanlan grouped lands by the same classifications as Brockway and applied the same consumptive use values to estimate a consumptive use prior to Sage Willow acquisition. Scanlan estimated a consumptive use of the 9,077 acre-feet. Based on allegations of nonuse on the Homestead Place (license no. 33-02091) and the North of Road Place (license no. 33-02090), Scanlan concluded the approval of these transfers would increase consumptive use by 1,504 acre-feet annually from the pre-1989 consumptive use values.

39. In protestant's exhibit no. 20, Scanlan disagreed with the consumptive values for crops irrigated with surface water used by Brockway in applicant's exhibit no. 7 and reduced the initial consumptive use values by 20 percent to account for the testimony of Vance Hawley regarding reduced crop harvest. He calculated a pre-1989 consumptive use of 8,273 acre-feet. He estimated consumptive use would increase by 1,809 acre-feet after the transfer is approved.

40. The assumptions by Scanlan are supported by direct evidence and testimony presented by Vance Hawley and are consistent with a careful review of aerial photography. These factors provide a more credible estimate of the acres historically irrigated and the historical total consumptive use.

41. Protestant's exhibit no. 18 proposes pro rata reductions in flow rates and acreage irrigated for each of the applications based on a ratio between the licensed places of use and the historical places of use as established by Vance Hawley. Despite detailed consumptive use calculations by two expert witnesses, Mays' proposal is based solely on irrigated acreage comparisons, not consumptive use comparisons.

42. Don Isham, a prior officer of the Canal Co., testified that to his knowledge, the later in time surface water rights alleged to be owned and proposed for transfer by Sage Willow have been delivered to the Canal Co. for decades. He testified that although the application for transfer that moved the water from the Knollin Ranch to the Canal Co. only included the early in time rights, the Canal Co. was entitled to the rights claimed by Sage Willow because of the long history of delivery.

43. The watermaster for the Little Lost River testified that in 1993, he delivered some of the surface water rights claimed by Sage Willow to Sage Willow.

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CONCLUSIONS OF LAW

1. The parties agree about most of the facts pertaining to the traditional use prior to Sage Willow's acquisition of the property and the expanded use of Sage Willow following its acquisition. There is some disagreement regarding the consumptive use calculations of the expert witnesses and which consumptive use numbers are most accurate. Both parties admit, however, that Sage Willow's proposal will increase the consumptive use on the Sage Willow property.

2. The first issue to be resolved is whether all or portions of the original water rights were lost by abandonment or forfeiture. License nos. 33-02090 and 33-02091 were forfeited because of non-use for over 20 years. Forfeiture was established by clear and convincing evidence.

3. One of the most difficult issues is the status of transfer no. 3785. The application for transfer was incomplete and contained representations that were not correct. Dumke explicitly represented, by signing the affidavit, that the right had not been forfeited and that there would be no injury or enlargement as a result of the transfer. An integral portion of the application, asking whether the applicant knew of any continuous five year period of non-use, was left blank. The Department did not independently investigate the possibility of forfeiture. In addition, the applications for transfer now pending were filed to revise what was previously approved.

4. There is no evidence that Dumke or Sage Willow fraudulently misled the Department, or that the transfer is void because of fraud. Because the pending applications for transfer attempt to correct previously approved transfer no. 3785, and because there were misrepresentations and omissions of fact in the filing of application for transfer no. 3785, transfer no. 3785 should be voided. Furthermore, although there has been some development pursuant to transfer no. 3785, Sage Willow constructed two of the pivots prior to approval of transfer no. 3785.

5. Because of the reasons set forth above, the finding of forfeiture should supersede the prior approval of transfer no. 3785.

6. The combined testimony of Vance Hawley and Terry Scanlan regarding the total place of use for the remainder of the Bird Ranch, the Knollin Ranch, and the Frew Place, establishes a historically irrigated acreage of 1,412 acres during a period of at least two decades.

7. The total number of acres authorized for irrigation pursuant to license nos. 33-02086 and 33-07018 is 230 acres. The total number of acres authorized for irrigation pursuant to license nos. 33-02057 and 33-02083 is 1,182 acres. Combined surface water and ground water irrigation should not exceed 1,412 acres, except for sub-irrigation. The total number of acres that

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can be irrigated by applying water (surface water and ground water) directly to the land is 1,412 acres. The right to irrigate any additional lands described by ground water and surface water rights in excess of 1,412 acres has been forfeited, except for benefits derived by subwater.

8. Applicants do not admit forfeiture, but emphasize the doctrine of resumption of use as a defense against forfeiture. Several Idaho court cases generally mention the resumption of use defense to forfeiture. Only two of the decisions find that there may have been a forfeiture and that resumption of use might resurrect the water right.

9. Wagoner v. Jeffrey, 66 Idaho 455, 162 P.2d 400 (1945) was a dispute between a water right holder who had perfected rights in wells located on federal property and another settler who subsequently obtained a patent to the property where the wells were located. More than five years of non-use elapsed. When the water right holder unsuccessfully attempted to resume his use, the subsequent settler, even though he had no water rights in the wells, attempted to block the resumption by alleging forfeiture. In Wagoner, there were no junior water right holders claiming a right to the water which was being diverted out of the wells. The resumption doctrine was applied because there was no intervening claim to the water.

10. In Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952), a water user attempted to transfer water rights diverted from the Big Lost River approximately 20 miles downstream. The protestants alleged the rights were forfeited. Unrefuted evidence established that the water right had not been applied to the original place of use for several decades, but the evidence also established that at least for a portion of that period, water was delivered to the proposed place of use and assessments for the delivery of the water had been paid. In its holding, the Idaho Supreme Court said:

> Thus, bills were rendered and payments made by respondent for water delivered by the District. The District showed no water was delivered to [the old place of use], so the water must have been, and two of the exhibits show the water was, delivered to the [proposed place of use].

73 Idaho at 159.

11. The court seemed to be concluding that the water right was not forfeited because it was delivered to other lands. Nevertheless, the court subsequently stated, quoting Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944):

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> Although statutory abandonment of a water right has occurred, forfeiture is not effective if after five-year period original owner or appropriator resumes the use of the water prior to claim of right by a third party.

73 Idaho at 160.

12. The court explained the quotation with two statements, the first implying the right had been forfeited but resumed, and the second implying the right had never been forfeited:

> No one claims this particular decreed water by adverse possession and clearly, so far as this proceeding is concerned, it was in part at least used by respondent on some of his Arco lands before it was claimed it had been forfeited.
>
> The trial court was justified in holding that water had been so used by respondent that he had not abandoned or forfeited his water rights . . . .

73 Idaho at 160.

13. More importantly, the court did not consider or discuss injury to other water rights that might be caused by the resumption of use.

14. Other cases discuss the resumption defense, but decide that the right was not forfeited. Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944) (held not abandoned and was not a resumption case); Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937) (held burden of proof on the party alleging forfeiture not satisfied). Another case, Jenkins v. State Dept. of Water Resources, 103 Idaho 384, 647 P.2d 1256 (1982), held that the right was forfeited but proof was not offered regarding the resumption of use defense.

15. The law does not require that a claim of ownership to the specific water delivered by a specific water right must be filed prior to resumption of use to prevent the resumption. Language in Zezi that the use must be resumed prior to other appropriations and the discussion of movement up the priority ladder by junior right holders in Jenkins narrowly limits when a water right can be resumed after it is forfeited.

16. Recognition of the resumption of use defense would frustrate the doctrine of prior appropriation in streams where: (1) junior appropriators have established water rights and have relied on water not diverted by a senior user; or (2) in this case, where senior surface water users and other water right holders have relied on related ground water not diverted by Sage Willow's predecessor. While the prior appropriation doctrine is crafted to protect water users by delivering in order of priority, its requirement of beneficial use of water prevents a water right holder from

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retaining unused water rights for a long period of time and then reasserting the right to the detriment of other right holders.

17. Other users are not required to assert a specific claim to the water rights or water represented by rights held by the user attempting to resume his use. The existence or establishment of a junior water right is sufficient claim to the water. The resumption doctrine cannot restore portions of water rights forfeited by Sage Willow's predecessor in interest to the detriment of other water right holders.

18. Detailed consumptive use comparisons by both parties implicitly invite the Department to microscopically look at the application of water upon the place of use and restrict the future consumptive use based on an estimated consumptive use. Nevertheless, protestant's exhibit no. 18 proposes to reduce water use proposed by the applications for transfer based solely on historical acres irrigated, not based on consumptive use. The Department declines, in this case, to limit the total diversion based on increased consumptive use which may result from improved efficiency of water application. Total diversion volumes and consumptive uses values will be assigned according to Department standards. Flow rates will be reduced to a rate of 0.02 cfs per acre unless Sage Willow can demonstrate the need for additional diversion rate.

19. These applications for transfer can only be approved if the applicant identifies 1,412 acres to which water will be physically diverted and applied by some means other than subirrigation. Annual volume for physical diversion, delivery, and application should be limited to 4,942 acre feet. Annual consumptive volume will be limited to 3,530 acre feet. The diversion rate will be limited to 28.24 cfs.

20. A plan identifying 1,412 acres that will be irrigated together with the individual water rights that will be appurtenant to the acreage must be submitted to the Department. The Department will then allocate volumes and diversion rates to each right.

21. As part of the proposal, the applicant may continue to derive the benefits of subirrigation from ponds and return flows to the Little Lost River, provided the ponds or the return channels are not reconstructed to increase subirrigation beyond the acreage historically subirrigated. Water shall not be diverted from ground water for the sole purpose of filling ponds or subirrigating. Surface water can only be diverted for root zone storage (presumably subirrigation) pursuant to license no. 33-02133 when all prior surface water rights are being satisfied.

22. Water rights cannot be obtained by adverse possession if the rights are being delivered by a watermaster in a water district. Idaho Code § 42-607.

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23. The Canal Co. is not entitled to ownership of water rights owned by Sage Willow.

ORDER

IT IS HEREBY ORDERED that transfer no. 3785 is VOIDED.

IT IS FURTHER ORDERED that license no. 33-02090 and license no. 33-02091 and portions of all other rights diverted and directly applied to lands in excess of 1,412 acres are FORFEITED.

IT IS FURTHER ORDERED that application for transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227 are **CONDITIONALLY APPROVED** provided the applicant does not irrigate more than 1,412 acres within the place of use proposed by the applications, and the applicant complies with the following:

1. A plan must be submitted to the Department of Water Resources within 56 days of the final disposition of this dispute or after any final appeal period has run identifying 1,412 acres that will be irrigated together with the individual water rights that will be appurtenant to the acreage. The plan must also be provided to the Protestants for review and comment. Comments from the Protestants must be submitted to the Department and to the Applicant one month following submittal of the plan. A hearing may be requested by either party within sixty (60) days of submittal of the plan.

2. Failure to submit the plan is cause for the Department to revoke its conditional approval of the application for transfer.

IT IS FURTHER ORDERED that the Department will issue another recommended decision if additional testimony is required following submittal of the plan.

DATED this 12 day of March, 1996.

KARL J. DREHER, Director

Attachment

MAR 2 7 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 15th day of March 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

Kent Foster
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

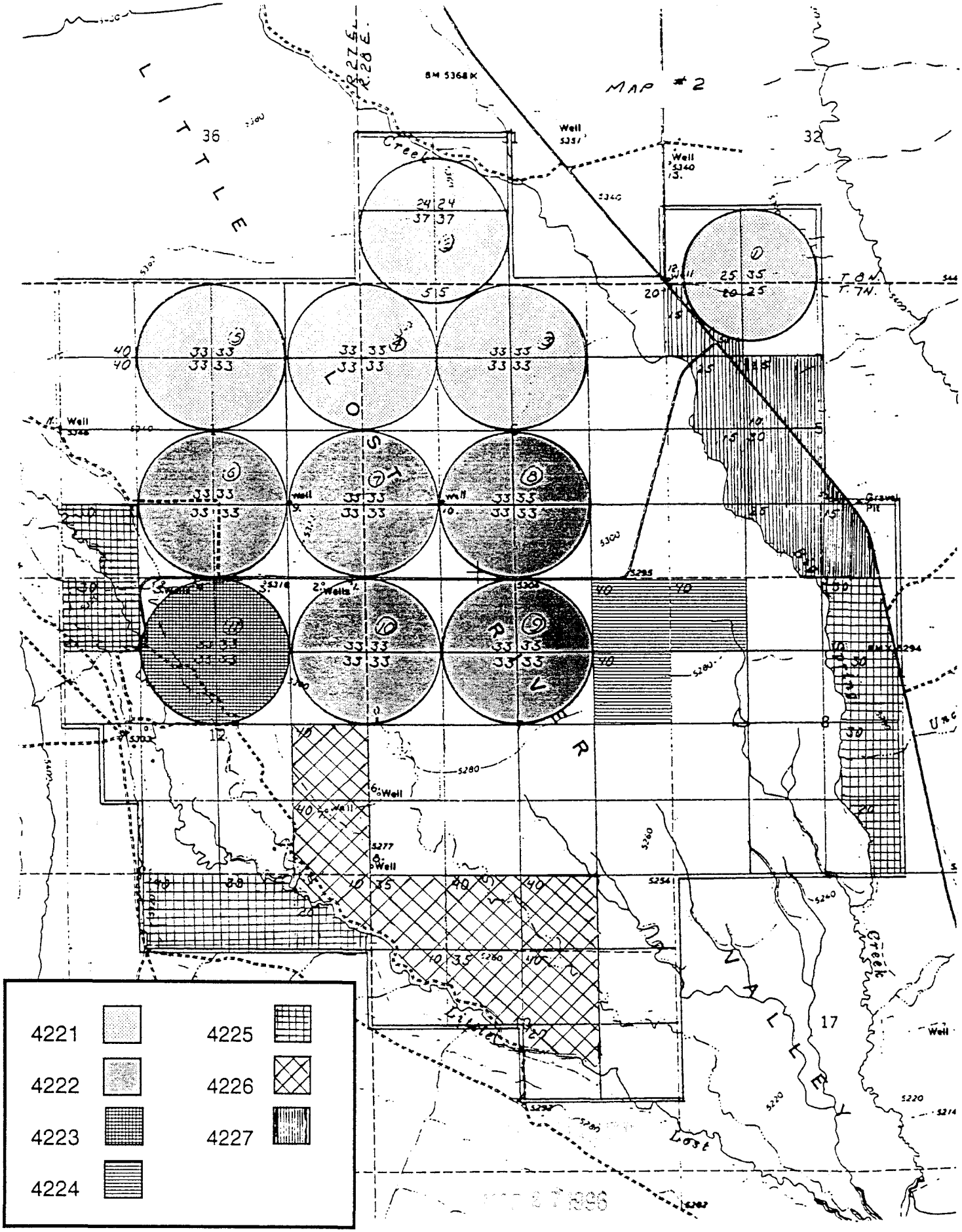
Blaine County Canal Co.
HC 65 Box 1018
Howe, ID 83244

Michael C. Creamer
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, ID 83701

J. Evan Robertson
Norman M. Semanko
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303-1906

Deborah Drew-Ellis
Deborah Drew-Ellis
Legal Secretary

MAR 27 1996



ATTACHMENT No. 1

SAGEWILLOW INC TRANSFER SUMMARY
TRANSFER NO. 4223

WR NO.	PRIORITY	ACRES PER RIGHT	RATE	VOLUME
33-02057C	02-01-1950	131.6	2.13	460.6
33-02083C	08-23-1957	133.4	0.45	164.2

TOTALS PER TRANSFER = 132.0 ACRES 2.58 CFS 624.8 AFA

2.58 CFS / 132 ACRES = 0.01954 CFS PER ACRE

VIR = 132 ACRES X 3.5 AF = **462.0 AF**
VDR = 2.58 CFS X 184 DAYS X 1.9835 = 941.6 AF

DIVERSION RATE PER ACRE < 0.02 CFS PER ACRE
MAXIMUM VOLUME EXCEEDED BY TOTAL VOLUME OF RIGHTS
IRR OVERLAP/**R30**

MAR 27 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226, AND 4227, IN THE NAME OF SAGE WILLOW, INC.	ORDER DENYING PETITION FOR RECONSIDERATION

The hearing officer has considered the issues raised in the applicant's petition for reconsideration of the amended recommended order, and finds that they were raised in the initial petition for reconsideration. The issues can be raised again before the Director as exceptions.

ORDER

IT IS HEREBY ORDERED that the applicants petition for reconsideration of the amended order is DENIED.

IT IS FURTHER ORDERED that any exceptions must be filed with the Director within twenty-one (21) days of the date of this order.

Dated this 5th day of December, 1995.

Gary Spackman
Hearing Officer

RECEIVED
MAR 27 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5th day of December, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER DENYING PETITION FOR RECONSIDERATION** to the following:

Kent Foster
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

Blaine County Canal Co.
HC 65 Box 1018
Howe, ID 83244

Michael C. Creamer
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, ID 83701

J. Evan Robertson
Norman M. Semanko
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303-1906

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

MAR 2 7 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226 AND 4227 IN THE NAME OF SAGE WILLOW, INC.	)))))	**AMENDED RECOMMENDED ORDER**

INTRODUCTION

Sage Willow, Inc. (Sage Willow) filed seven applications for transfer with the Idaho Department of Water Resources (Department). Some of the applications were protested by the Blaine County Canal Co. (the Canal Co.), James Mays, Mays Land and Livestock Co. (collectively referred to as "Mays") and Simplot Land and Development. Simplot Land and Development Co. subsequently withdrew its protest.

After expiration of the protest period Mays discovered they had not protested all of the applications for transfer filed by Sage Willow. Mays filed a motion to amend the protest to include protests opposing all of the applications for transfer, and to add issues of forfeiture and enlargement to the issues raised by the original protests. The motion to amend was granted prior to the hearing.

On January 18, 1995, the Canal Co. filed a motion to amend its protests. The hearing officer initially denied the motion to amend from the Canal Co. because it was untimely. At the hearing, however, the hearing officer revoked the order denying the motion to amend, and granted the motion to amend. The Canal Co. and Mays participated as full parties in all the proceedings. A hearing regarding the protest was conducted on January 31 and February 1, 1995.

A Recommended Order was issued on May 22, 1995. Council for Sage Willow timely filed a motion for reconsideration which the hearing officer granted. The order granting reconsideration limited reconsideration to two (2) issues:

1. Whether use of water pursuant to water right no. 33-02091, although previously transferred/abandoned, should be recognized because of the approval of transfer no. 3785, which was approved in 1992?

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2. Whether the number of acres authorized for irrigation pursuant to rights nos. 33-02086 and 33-07018 should have been reduced solely on the basis of Terry Scanlan's testimony?

Briefs were to be filed regarding the petition for reconsideration on or before July 14, 1995.

Sage Willow requested a transcript of the record, and after issuance of the order granting reconsideration, the parties agreed to delay briefing until the transcript was prepared. The parties both filed briefs on or about September 1, 1995.

The issues allowed for reconsideration will be discussed in the following Analysis section, and the FINDINGS OF FACT, CONCLUSIONS OF LAW and RECOMMENDED ORDER follow the Analysis.

ANALYSIS

Approval of Transfer No. 3785

The order granting reconsideration stated:

> Sage Willow should be able to rely on the Department's decision in proceeding with the project. Perhaps there should be some application of res judicata with respect to administrative matters. Or perhaps the resumption of use doctrine should be evoked if the Department approved the transfer, and the water user resumed the use prior to an objection."

Sage Willow argued that the Department's review of a prior transfer is a collateral attack, instead of an issue of res judicata. Because similar factual and legal issues are before the same jurisdictional body (the Department), and the issue of forfeiture could have been decided in the previous proceeding, the circumstances appear more closely related to res judicata. I will refer to the issue as res judicata throughout this decision.

Elements that trigger res judicata are: (1) a prior proceeding resulting in a final judgement on the merits, (2) between the same parties or their privies, (3) on the same claim. The "same claim" element broadly encompasses any claim that arose out of the same set of facts, or as more commonly stated, the same transaction or occurrence as the original claim. Aldape v. Akins, 105 Idaho 254, 668 P.2d 130 (Ct. App. 1983); Restatement (Second) of Judgments § 24 (1982). An administrative approval of an application for transfer, even if it is not contested, should be considered a final judgment on the merits. Finally, the same claims are being asserted before the Department that were raised, or could have been raised in the prior proceeding.

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In University of Tennessee v. Elliott, 478 U.S. 788 (1986) the court explained:

> Where an administrative forum has the essential procedural characteristic of a court, . . . it's determinations should be accorded the same finality that is accorded the judgment of the court. The importance in bringing a legal controversy to conclusion is generally no less when the tribunal is an administrative tribunal than when it is a court.

478 U.S. at 798.

Section 83 of the Restatement (Second) of Judgments states that res judicata generally applies to an agency decision only if the decision was the result of an adjudication. For an adjudication to occur, the following essential elements must be present:

1. Adequate notice to parties who are to be bound by the proceeding;
2. The right of parties to present and rebut evidence and advance legal arguments;
3. An application of law to specific parties regarding a specific transaction;
4. A final agency decision;
5. Additional procedural elements that may be necessary to provide a sufficient means to conclusively determine the matter in question.

The approval of a transfer invokes res judicata because the procedures required for an application for transfer entail all the essential elements of an adjudication. Notice of the proposal is published for prospective parties to review. An applicant has the right to contest the Department's decision. If protests are filed, a contested hearing is granted to the parties. Furthermore, principles of res judicata apply not only to issues which were raised, but issues which could have been raised but were not raised.

Res judicata is subject to a public interest exception. Under this exception, res judicata should not be applied where the "benefits of finality are outweighed by adverse impact on public interest." Dana's Housekeeping, Inc. v. Department of Labor & Industr., 886 P.2d 1147, 154 (Ct. App. Wash. 1995); Second Restatement § 28(5)(a). See also Tipler v. E.I. duPont deNemours & Co. 443 F.2d 125, 128 (6th Cir. 1971) (preclusion doctrines "are qualified or rejected when their application would contravene an overriding public policy or result in manifest injustice.). As a general rule, administrative res judicata should not be woodenly applied. Martin v. Donovan, 731 F.2d 1415, 1416 (9th Cir. 1984).

In addition, Idaho Code § 42-350 states:

> If the director of the department of water resources finds, on the basis of available information *at any time after a license is issued,* that the licensee has ceased to put the water to a beneficial use for a period of five (5) continuous years . . . then the director of the department of water resources may issue . . . an order to show cause before the director of the department . . . why the director of the department should

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not revoke said license . . .. (Emphasis added).

While this statute directs a specific administrative process, and does not discuss the effect of a transfer approval, it supports a holding that the director can review forfeiture issues, even after a transfer approval has been granted.

The cases cited suggest some equitable balancing. There are reasons in this case why res judicata should not apply. Sage Willow did not rely on a decision of the Department in purchasing its irrigation equipment. It was purchased and installed prior to any approval by the Department. The approved transfer moved water onto land that was already identified as a place of use by another water right. Despite the characterization by Sage Willow that it was simply attempting to transfer what the Department had already approved, the net effect of the latest application for transfer is to correct an overlap which was erroneously caused by error identifying the place of use in the first transfer. The issue of forfeiture was avoided in the first proceeding, and the applicant did not respond to the question of forfeiture on the original application. While the Department should have identified this defect, the Department's own error should not be the focal point of whether a clear forfeiture/abandonment should be ignored because of the approved transfer. Despite Sage Willow's statement in its brief supporting reconsideration that the transfer had been approved for many years, the last transfer was approved in 1992.

The Department's review must extend beyond the prior approval and any hardship it might cause Sage Willow. Blind adherence to a previous approval without considering its impact on other water users is not in the public interest. The adverse impact on public interest outweighs the benefits of finality particularly in light of the clear and uncontraverted evidence of forfeiture, and would contravene an overriding public policy of protecting other water users. As a result, the recommended decision will continue to hold that license nos. 33-02090 and 33-02091 are forfeited.

Estoppel cannot be applied to the Department of Water Resources in this case. Consideration of an application for transfer is part of the sovereign responsibility of the Department, and is not a proprietary action. Furthermore, the resumption of use doctrine should not be applied as a crutch to justify continued use by Sage Willow. The decision hinges solely on whether res judicata prohibits the Department from determining if license no. 33-02091 was forfeited. In this case res judicata does not bar reconsideration.

Irrigated Acreage in the Frew Place

The order granting reconsideration recognized that Vance Hawley did not add corroborating testimony to the 230 acre place of use estimate proposed by Terry Scanlan for the Frew Place. The clear and convincing evidence standard is the evidentiary standard by which the Department should review forfeiture issues. The Department should review the historical use of the water to determine the extent of beneficial use for purposes of forfeiture. Despite Sage Willow's argument that a place of use of 260 acres should be recognized, applicant's exhibit no. 7, prepared by C.E. Brockway, a consultant retained by Sage Willow, agrees with the estimates of a 230 acre place of use.

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Applicant's exhibit 1"a" is a map depicting the places of use for license nos. 33-02086 and 33-07018. The total number of acres authorized for irrigation by these overlapping licenses appurtenant to the Frew Place is 261 acres. The second column in the table below lists the places of use described by the water rights. The third column lists Brockway's estimate of irrigated acreage for the Frew Place that corresponds to the water right place of use. The fourth column adds additional bottomland acres not irrigated, but perhaps deriving some benefit from irrigation water.

FREW PLACE OF USE SUMMARY

Description	**Water Right Place of Use**	**Brockway's Irrigated Place of Use**	**Brockway's Irrigated Pof U & Bottomland**
T7N R28E Sec. 5	NENW - 35 ac. NWNW - 38 ac. SWNW - 33 ac. SENW - 36 ac. 142 acres	NW¼ - 115 ac. 115 acres	NW¼ - 120 ac. 120 acres
T7N R28E Sec. 5	NESW - 32 ac. (SESW - 40 ac.)* 32 acres	SW¼ - 85 ac. 45 acres**	100 ac. 45acres**
T8N R28E Sec. 32	NWSW - 31ac. SWSW - 39 ac. SESW - 17 ac. 87 acres	SW¼ - 65 acres 65 acres	65 ac. 65 acres
Total	261 acres	225 acres	230 acres

* This 40 acre parcel was not described as a place of use for license nos. 33-02086 & 33-07018 but was described as a place of use by license no. 33-02133 and is not part of the Frew place. It is included in the table only to show where the 85 acres estimated by Brockway to be irrigated are located.

** License nos. 33-02086 & 33-07018 describe 32 acres as the place of use for the NE¼SW¼ of Section 5, T07N, R28E. Brockway found a total of 85 acres irrigated in the SW¼ of Section 5. Assuming that only 40 acres are irrigated in the SE¼SW¼ of Section 5, the remaining 45 acres are liberally attributed to the NE¼SW¼ of Section 5.

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Sage Willow cannot argue that the Department should recognize 260 acres of irrigation in the Frew Place when its own expert does not identify, even in a liberal interpretation, more than 230 actual irrigated acres. This decision will recognize 230 acres irrigated in the Frew Place.

Abandonment

Sage Willow argued that the finding of abandonment is not supported by the evidence. After reading the testimony of Vance Hawley, I find that his statements about the use of water on the Homestead Place and the North of Road Place were much less convincing than I remembered. When asked why water was not used on the Homestead Place after issuance of a patent, Vance Hawley stated that he would "venture a guess" about why water was not used following issuance of the patent from the federal government. A ventured guess is not sufficient evidence of intent to abandon. The evidence clearly establishes that water authorized for diversion pursuant to license nos. 33-02090 and 33-02091 was not beneficially used for more than twenty years, but it does not clearly establish that license nos. 33-02090 and 33-02091 were abandoned.

The hearing officer recommends the following amended Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. In 1989, Sage Willow, Inc. (Sage Willow) acquired a ranch, located near the confluence of the Little Lost River and Spring Creek, commonly known as the Knollin Ranch. At the same time Sage Willow also acquired other parcels contiguous to or nearby the Knollin Ranch.

2. One parcel is located approximately 1½ miles northwest of the Knollin place. The parcel is divided into two pieces by the east 16th line of Sec. 35, T27N, R28E, B.M. The property located on the west side of the 16th line is commonly known as the Bird Ranch. The property located east of the 16th line is commonly known as the Homestead Place.

3. Another parcel is located on the north side of an east-west county road, which was the northern boundary of the original Knollin Ranch, and will hereafter be referred to as the "North of Road Place."

4. In 1993, Sage Willow acquired additional land contiguous to and northeast of the Knollin Ranch from David and Terry Hawley (the Frew Place).

5. The Knollin Ranch was originally owned by A.J. Knollin. Several surface water rights were appurtenant to the Knollin Ranch. Because of financial difficulties, A.J. Knollin conveyed his interest in the Knollin Ranch to the first mortgage holder in 1942. In the same year, the Canal Co. purchased the Knollin Ranch from the mortgage holder. During the late 1940's, the Canal Co. sold the ranch land to L.R. "Slim" Hawley (Hawley). The earliest priority water rights appurtenant to the Knollin Ranch were not conveyed to Hawley, however, but were retained by the Canal Co., and later transferred to downstream lands. The

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Canal Co. rights are some of the earliest water rights diverted from the Little Lost River, bearing priority dates of 1879 to 1891.

6. Several late priority surface water rights remained appurtenant to or were developed for use on the Knollin Ranch. The rights are described below:

Irrigation Rights

Water Right No.	CFS	Priority	Source
33-00069	3.2	06/01/1908	Little Lost River
33-00070	2.8	10/01/1906	Spring Creek
33-00071	3.2	03/15/1909	Spring Creek
33-00072	.8	05/01/1908	Little Lost River
33-00073	6.4	04/01/1912	Spring Creek
33-00074	1.6	08/06/1913	Little Lost River
33-00076	6.8	04/01/1913	Little Lost River
33-00078	3.2	10/15/1913	Little Lost River
33-00079	1.6	04/01/1912	Little Lost River
33-00080	.8	05/01/1908	Spring Creek
33-00081	.8	05/01/1908	Spring Creek
33-00082	.8	05/01/1908	Spring Creek
33-02007	2.9	02/15/1909	Little Lost River
33-02008	6.4	06/12/1909	Spring Creek
	41.3		

Soil Root Zone Storage Right.

Water Right No.	Acre Feet	Priority	Source
33-02133	2,960	06/02/1949	Little Lost River Spring Creek

7. The surface water rights could only be delivered to Hawley during high water flows, however, and there was insufficient surface water to irrigate the Knollin Ranch. Hawley obtained two licenses to irrigate the Knollin and Bird Ranches with ground water, numbered 33-02057 and 33-02083.

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The ground water rights for the Knollin and Bird Ranches are described as follows:

Water Right No.	CFS	Priority	Source
33-02057	24.0	02/01/1950	8 wells # 1-8
33-02083	5.0	08/23/1957	8 wells #1-8

8. In addition, ground water rights were also perfected for the Frew Place, which Sage Willow acquired from David and Terry Hawley. The Frew Place rights are listed below:

Water Right No.	CFS	Priority	Source
33-02086	4.1	01/12/1959	well # 13
33-07018	3.26	09/12/1972	well # 12

9. Finally, Hawley and some of his contemporary relatives obtained patents for two parcels of federal property pursuant to the Desert Land Entry Act. Two licenses to appropriate ground water were issued by the Department for these parcels. License no. 33-02091 was perfected for irrigation of the Homestead Place. License no. 33-02090 was perfected for irrigation of the North of Road Place. The following describes components of these rights:

Water Right No.	CFS	Priority	Source
33-02090	5.93	12/21/1959	well # 11
33-02091	4.36	01/22/1960	well on Bird Ranch

10. The places of use and points of diversion prior to Sage Willow's acquisition of the water rights described in the preceding paragraphs are depicted on the map labeled as applicant's exhibit no. 1"a."

11. Sage Willow filed application for transfer nos. 4221, 4222, 4223, 4224, 4225, 4226 & 4227, proposing to change the place of use for all of the rights listed above. The multiple applications for transfer were filed to define portions of the water rights that would be appurtenant to each of seven independent delivery systems. Application nos. 4221, 4222 and 4223 propose the irrigation of land primarily north of the original Knollin Ranch with pressurized circular pivots. Application nos. 4224, 4225, 4226 and 4227 propose gravity irrigation of other land. The proposed places of use are depicted on a map labeled as applicant's exhibit no. 1"b." For further clarity, a map depicting the system (or place of use) described by each of the applications is attached. The original and proposed places of use described in the applications are not restated in this decision because of their size and complexity.

12. A geologic formation near the confluence of the Little Lost River and Spring Creek retards

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the southward flow of ground water in the underlying aquifer, causing the ground water and surface water to merge in the southern half of the Knollin Ranch. The Little Lost River loses water to the underground aquifer above the Knollin Ranch, but as the ground water and surface water merge, the Little Lost River and Spring Creek gain water as they flow through the Knollin Ranch. The merger of the ground water and surface water continues downstream several miles to the Canal Co. diversion.

13. The Little Lost River and the aquifer underlying the Little Lost River Basin below the Knollin Ranch are dependent on water flows which pass the Knollin Ranch, either on the surface, or underground.

14. The Hawley wells were drilled into the shallow aquifer connected to the surface water. There is a direct hydrologic connection between the water pumped by the Hawley wells and the surface water that flows downstream into the Little Lost River below the Knollin Ranch.

15. Vance Hawley, a son of Slim Hawley, grew up in the Little Lost Valley, and helped farm the Knollin and Bird Ranches as a youth, although he did not reside on the Knollin Ranch. After attending college, Vance Hawley returned and assisted in farming the property from 1970 through 1978. During these eight (8) years, he did not manage the farm, but resided on the Knollin Ranch. From 1978 through 1980 he leased the Knollin Ranch property. After the lease expired, he was acquainted with the operation of the farms until 1989, when the Knollin Ranch was sold to Sage Willow.

16. Vance Hawley was also aware of the operation of the Bird Ranch, the Homestead Place, the North of Road Ranch, and other surrounding lands.

17. Vance Hawley testified about the extent of beneficial use of water on the properties now owned by Sage Willow. He testified that the total number of acres irrigated on the Bird Ranch did not exceed 297 acres. He also testified that irrigation of individual parcels on the Knollin Ranch totaled 879 acres.

18. Vance Hawley testified that the Homestead Place, located just east of the Bird Ranch, was irrigated with water pursuant to license no. 33-02091 in the early 1960's until a patent of ownership was issued by the federal government. He testified that the land was converted back to early season dry range land and was never irrigated in the late 1960's, all of the 1970's and the 1980's until Sage Willow bought the property.

19. Vance Hawley also stated that the North of Road Place, patented by his aunt and uncle, located north of the main east-west access road into the Knollin Ranch, was irrigated with water pursuant to license no. 33-02090 in the early 1960's until a patent of ownership was issued by the federal government. He testified that after the patent was issued the property was converted back to early season dry rangeland. He testified that water had not been applied to the lands pursuant to license no. 33-02090 during the late 1960's, all of the 1970's, and the 1980's until the property was purchased by Sage Willow.

20. James Mays, a lifelong resident of the Little Lost River Valley, testified he was familiar with both the Homestead Place and the North of Road Place, and had not observed any irrigation on the

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Homestead Place or North of Road Place, at least until Sage Willow acquired the parcels.

21. Vance Hawley drew the boundaries of and estimated the number of acres irrigated during his acquaintance with the property. This land is depicted on protestant's exhibit no. 3. The estimate includes lands irrigated with both surface water and ground water. He estimated that no more than 1176 acres were irrigated within the boundaries of the Knollin Ranch and Bird Ranch.

22. The testimony of Vance Hawley is the most credible evidence regarding the traditional use of water on the entire Sage Willow land holdings until 1989.

23. Terry Scanlan (Scanlan), an engineer and geologist hired by Mays, consulted aerial photographs, and estimated that approximately 230 acres were irrigated in the Frew Place. This estimate is supported by the irrigated acreage estimates prepared by Dr. Charles E. Brockway, P.E. (Brockway), a consultant hired by Sage Willow.

24. Scanlan also estimated that 1182 acres were irrigated in the Knollin Place and the Bird Place, six more acres than estimated by Vance Hawley. Adding the 230 acres irrigated in the Frew Place, Scanlan estimated the total acreage irrigated prior to 1989 was 1412 acres. Because of the six acre descrepancy between Vance Hawley's estimate and Scanlan's estimate, the difference will be resolved in favor of Sage Willow. A total of 1412 acres were irrigated prior to 1989.

25. In 1989, Sage Willow purchased the Knollin Ranch, the Bird Ranch, the Homestead Place and the North of Road Place. Jerry Pancheri was hired as the manager of the ranch, and was instructed to apply the water to the land as efficiently as possible and to recommend changes to the system to more efficiently use the water.

26. Pancheri testified about his attempts to use the water and identified land irrigated during the years he managed the farm. Pancheri identified on protestant's exhibit no. 21 the lands which were irrigated in various years. He approximated the areas irrigated in several individual parcels, and the parties summed his estimates in their briefs, as set forth below:

Year	Total Number of Acres Irrigated Sage Willow's Estimate	Mays' Estimate
1989	1300	1400
1990	1560	1740
1991	2000	2004
1992	2130	2100
1993	2390	-----

27. During 1990 and 1991, Pancheri determined that several preexisting ponds located on the Knollin property should be repaired and filled with water. These ponds, when filled with water, contribute significant sub-water to the shallow aquifer and sub-irrigate some of the lower elevation pastures located

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on the Knollin Ranch.

28. Pancheri also determined that the lands within the Bird Ranch and the Homestead Place were the poorest agricultural lands of the Sage Willow holdings and recommended that the water rights appurtenant to the Bird and Homestead Place be transferred to other lands located north of the Knollin Ranch. These lands north of the Knollin Ranch were acquired by Jerry Pancheri, and subsequently by Sage Willow, through an exchange of lands with the Bureau of Land Management.

29. In October, 1990, Sage Willow, through its president, Edmund Dumke, applied to transfer license no. 33-02091 (transfer no. 3785) from the Homestead Place to land located in the SE¼ of Section 1, T7N, R27E, and the SW¼ and SE¼ of Section 6, T7N, R28E. The transfer application was signed by Dumke as president of Sage Willow. Part 1 of the transfer application requests the applicant to "[d]escribe the effect on the land now irrigated if the place of use is changed pursuant to this transfer." Dumke responded that "[w]e will dry farm this old place of use." There was no response to question 10 in part 2 of the application which asks "To your knowledge, has any portion of this water right undergone a period of five (5) or more consecutive years of non-use?" By signing the application, Dumke asserted that "no one will be injured by such change and that the change does not constitute an enlargement in use of the original right."

30. Dumke testified at the hearing that he had no personal knowledge regarding license no. 33-02091. He did not personally know whether a well was located at the licensed point of diversion or if any irrigation had occurred pursuant to license no. 33-02091 on the licensed place of use. Dumke stated that he relied entirely on others to prepare the application.

31. Harold Jones, an employee in the Department's Eastern Regional Office, testified that the Department's current policy is to rely on the representations made in the transfer application for a licensed right if no protests are filed. In reviewing the Sage Willow application for transfer no. 3785, the Department did not independently investigate the existence of a well and pump at the licensed point of diversion, or diversion for beneficial use on the licensed place of use for license no. 33-02091.

32. Transfer no. 3785 approved a change in the place of use for license no. 33-02091 from the Homestead Place to part of the North of Road Place. The transfer resulted in an overlap of license no. 33-02091 on the place of use for license no. 33-02090. One of the purposes of the pending transfers is to correct transfer no. 3785 by moving license no. 33-02091 to lands not already described as a place of use by license no. 33-02090.

33. In 1991, two new pivots (pivots 6 and 7) were installed on the lands in Sections 1 and 6, and irrigation commenced that same year. *(See* protestant's exhibit no.13, 1991 Landsat Image and testimony of Mr. Pancheri and Mr. Scanlan.) Although the pivots were installed and operated in 1991, the record indicates transfer no. 3785, which authorized license no. 33-02091 to be used in Sections 1 and 6, was not approved until October of 1992.

34. Vance Hawley testified that lands owned by Hawley were flood irrigated, and many of the fields were only irrigated once during the season. When hay was harvested from these lands, only one half

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to one ton per acre of hay was harvested, compared to a full average harvest of approximately three tons per acre for the Little Lost River Valley.

35. Dr. Charles Brockway, P.E., was hired by Sage Willow in 1989 to conduct various studies regarding the Little Lost River Drainage and its hydrologic and hydrogeologic characteristics, particularly with reference to the Sage Willow holdings. In preparation for the hearing, Brockway walked the Sage Willow property, noted existing ditches and the location of abandoned ditches thereon, and consulted aerial photography to determine the number of acres that could have been irrigated on the Sage Willow property. Brockway prepared applicant's exhibit no. 7 which lists the acreage owned by Sage Willow and estimates consumptive use prior to the Sage Willow purchase of the property. The consumptive use calculated represents consumption by crops irrigated by both sprinkler and flood applications, and also includes consumption by bottom land and rangeland vegetation. Lands which showed some evidence of past irrigation, even though not irrigated at the time Sage Willow aquired the property, were assigned irrigation consumptive use values.

36. Brockway concluded that the consumptive use prior to the Sage Willow purchase was 10,192 acre feet. He also testified that consumptive use increased approximately 760 acre feet between 1989 and 1992, and will increase another 137 acre feet if the applications for transfer are approved.

37. Brockway also testified that the additional 137 acre foot depletion would reduce stream flows to the Little Lost River by 0.20 cfs, and the effect on the aquifer levels would not be detectable.

38. Scanlan combined Vance Hawley's recollection of water use with information derived from aerial photography, and determined the total number of acres traditionally irrigated in the Knollin, Bird and Frew properties. For purposes of comparison, in protestant's exhibit no. 15 Scanlan grouped lands by the same classifications as Brockway, and applied the same consumptive use values to estimated a consumptive use prior to Sage Willow acquisition. Scanlan estimated a consumptive use of the 9,077 acre feet. Based upon allegations of non use on the Homestead Place (license no. 33-02091), and the North of Road Place (license no. 33-02090), Scanlan concluded the approval of these transfers would increase consumptive use by 1504 acre feet annually from the pre-1989 consumptive use values.

39. In protestant's exhibit no. 20, Scanlan disagreed with the consumptive values for crops irrigated with surface water used by Brockway in applicant's exhibit no. 7, and reduced the initial consumptive use values by 20 percent to account for the testimony of Vance Hawley regarding reduced crop harvest. He calculated a pre-1989 consumptive use of 8,273 acre feet. He estimated consumptive use would increase by 1,809 acre feet after the transfer is approved.

40. The assumptions by Scanlan are supported by direct evidence and testimony presented by Vance Hawley and are coupled with a careful review of aerial photography. These factors provide a more credible estimate of the acres historically irrigated and the historical total consumptive use.

41. Protestant's exhibit no. 18 proposes prorata reductions in flow rates and acreage irrigated for each of the applications based on a ratio between the licensed places of use and the historical places of use as established by Vance Hawley. Despite detailed consumptive use calculations by two expert

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witnesses, Mays' proposal is based solely on irrigated acreage comparisons, not consumptive use comparisons.

42. Don Isham, a prior officer of the Canal Co. testified that, to his knowledge, the later in time surface water rights, alleged to be owned and proposed for transfer by Sage Willow, have been delivered to the Canal Co. for decades. He testified that, although the application for transfer that moved the water from the Knollin Ranch to the Canal Co. only included the early in time rights, the Canal Co. was entitled to the rights claimed by Sage Willow because of the long history of delivery.

43. The watermaster for the Little Lost River testified that in 1993, he delivered some of the surface water rights claimed by Sage Willow to Sage Willow.

CONCLUSIONS OF LAW

1. The parties agree about most of the facts pertaining to the traditional use prior to Sage Willow's acquisition of the property, and the expanded use of Sage Willow following its acquisition. There is some disagreement regarding the consumptive use calculations of the expert witnesses and which consumptive use numbers are most accurate. Both parties admit, however, that Sage Willow's proposal will increase the consumptive use on the Sage Willow property.

2. The first issue to be resolved is whether all or portions of the original water rights were lost by abandonment or forfeiture. License nos. 33-02090 and 33-02091 were forfeited because of non-use for over 20 years. Forfeiture was established by clear and convincing evidence.

3. One of the most difficult issues raised is the status of transfer no. 3785. The application for transfer was incomplete and contained representations that were not correct. Dumke explicitly represented, by signing the affidavit, that the right had not been forfeited, and that there would be no injury or enlargement as a result of the application. An integral portion of the application, asking whether the applicant knew of any continuous, five year period of non-use, was left blank. The Department did not independently investigate the possibility of forfeiture. In addition, the applications for transfer now pending were filed to revise what was previously approved.

4. There is no evidence that Dumke or Sage Willow fraudulently misled the Department, or that the transfer is void because of fraud. Because the pending applications for transfer attempt to correct previously approved transfer no. 3785, and because there were misrepresentations and omissions of fact in the filing of application for transfer no. 3785, transfer no. 3785 is voided, and the Department is not bound by the previous approval. Furthermore, although there has been some development pursuant to transfer no. 3785, Sage Willow constructed two of the pivots prior to approval of the transfer 3785.

5. Because of the reasons set forth above, the finding of forfeiture supersedes the prior approval of transfer no. 3785.

6. The combined testimony of Vance Hawley and Terry Scanlan regarding the total place of

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use for the remainder of the Bird Ranch, the Knollin Ranch, and the Frew Place establishes a historically irrigated acreage of 1,412 acres during a period of at least two decades.

7. The total number of acres authorized for irrigation pursuant to license nos. 33-02086 and 33-07018 is 230 acres. The total number of acres authorized for irrigation pursuant to license nos. 33-02057 and 33-02083 is 1,182 acres. Combined surface water and ground water irrigation should not exceed 1,412 acres, except for sub-irrigation. The total number of acres which can be irrigated by applying water (surface water and ground water) directly to the land is 1,412 acres. The right to irrigate any additional lands described by ground water and surface water rights in excess of 1,412 acres has been forfeited, except for benefits derived by subwater which will be discussed later.

8. Applicants do not admit forfeiture, but emphasize the doctrine of resumption of use as a defense against forfeiture. Several Idaho court cases generally mention the resumption of use defense to forfeiture. Only two of the decisions find that there may have been a forfeiture, and that resumption of use might resurrect the water right.

9. Wagoner v. Jeffrey, 66 Idaho 455, 162 P.2d 400 (1945) was a dispute between a water right holder who had perfected rights in wells located on federal property, and another settler who subsequently obtained a patent to the property where the wells were located. More than five years of non use elapsed. When the water right holder unsuccessfully attempted to resume his use, the subsequent settler, even though he had no water rights in the wells, attempted to block the resumption by alleging forfeiture. In Wagoner, there was no junior water right holder claiming a right to the water which was being diverted out of the wells. The resumption doctrine was applied because there was no intervening claim to the water.

10. In Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952), a water user attempted to transfer water rights diverted from the Big Lost River approximately 20 miles downstream. The protestants alleged the rights were forfeited. Unrefuted evidence established that the water right had not been applied to the original place of use for several decades, but the evidence also established that, at least for a portion of that period, water was delivered to the proposed place of use, and assessments for the delivery of the water had been paid. In its holding, the Idaho Supreme Court said:

> Thus, bills were rendered and payments made by respondent for water delivered by the District. The District showed no water was deliver to [the old place of use], so the water must have been, and two of the exhibits show the water was, delivered to the [proposed place of use].

73 Idaho at 159.

11. The court seemed to be concluding that the water right was not forfeited because it was delivered to other lands. Nevertheless, the court subsequently stated, quoting Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944):

> Although statutory abandonment of a water right has occurred, forfeiture is not effective if

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after five-year period original owner or appropriator resumes the use of the water prior to claim of right by a third party.

73 Idaho at 160.

12. The court explained the quotation with two inconsistent statements, the first sounding as if the right had been forfeited but resumed, and the second sounding as if the right had never been forfeited:

> No one claims this particular decreed water by adverse possession and clearly, so far as this proceeding is concerned, it was in part at least used by respondent on some of his Arco lands before it was claimed it had been forfeited.
>
> The trial court was justified in holding that water had been so used by respondent that he had not abandoned or forfeited his water rights . . ..

73 Idaho at 160.

13. Other cases discuss the resumption defense, but decide that the right was not forfeited. Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944) (held not abandoned, and was not a resumption case); Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937) (held burden of proof on the party alleging forfeiture not satisfied). Another case, Jenkins v. State Dept. of Water Resources, 103 Idaho 384, 647 P.2d 1256 (1982), held that the right was forfeited, but proof was not offered regarding the resumption of use defense.

14. The law does not require that a claim of ownership to the specific water delivered by a specific water right must be filed prior to resumption of use to prevent the resumption. Language in Zezi that the use must be resumed prior to other appropriations, and the discussion of movement up the priority ladder by junior right holders in Jenkins narrowly limits when a water right can be resumed after it is forfeited.

15. Recognition of the resumption of use defense would frustrate the doctrine of prior appropriation in streams where (1) junior appropriators have established water rights and have relied on water not diverted by a senior user, or (2) in this case, where senior surface water users and other water right holders have relied on related ground water not diverted by Sage Willow's predecessor. While the prior appropriation doctrine is crafted to protect water users, by delivering in order of priority, its requirement of beneficial use of water prevents a water right holder from retaining unused water rights for a long period of time, and then reasserting the right to the detriment of other right holders.

16. Other users are not required to assert a specific claim to the water rights or water represented by rights held by the user attempting to resume his use. The establishment of a water right is sufficient claim to the water. The resumption doctrine cannot restore portions of water rights forfeited by Sage Willow's predecessor in interest to the detriment of other water right holders.

17. Detailed consumptive use comparisons by both parties implicitly invite the Department to

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microscopically look at the application of water upon the place of use and restrict the future consumptive use based on an estimated consumptive use. Although consumptive use was not defined by the initial water rights which were licensed or decreed, each water right is implicitly limited by the consumptive use inherent to the beneficial use authorized. Within the limitation of the maximum consumptive use value, the water right holder should be able to plant more or less consumptive crops depending on his needs. If there is a pattern of rotation within the farming operation, a portion of a right should not be lost because a water right holder's crops did not consume the maximum consumptive use value.

18. If the Department evaluated the consumptive use microscopically, the Department would be required to:

a. Determine the traditional acres irrigated;

b. Determine how much water was traditionally consumed by crops grown on those acres;

c. (i) evaluate how much more efficient the proposed method of irrigation is or,
(ii) evaluate how much more water will be consumed by the anticipated crop use;

d. (i) further reduce the acres irrigated to prevent increased consumption, or
(ii) further reduce the volume and flow diverted to prevent increased consumption.

19. Because the protestant proposes restrictions based on historical acres irrigated, not based on consumptive use, the Department declines, in this case, to limit the total diversion based on increased consumptive use which may result from improved efficiency of water application. Total diversion volumes and consumptive uses values will be assigned according to Department standards. Flow rates will be reduced to a rate of 0.02 cfs per acre unless Sage Willow can demonstrate the need for additional volume or diversion rate.

20. These applications for transfer can only be approved if the applicant identifies 1,412 acres to which water will be physically diverted and applied by some means other than subirrigation. Annual volume for physical diversion, delivery and application should be limited to 4,942 acre feet. Annual consumptive volume will be limited to 3,530 acre feet. The diversion rate will be limited to 28.24 cfs.

21. A proposal identifying 1412 acres, and the individual rights that will be appurtenant to the lands, must be submitted to the Department. The Department will allocate volumes and diversion rates to each right.

22. As part of the proposal, the applicant may continue to derive the benefits of subirrigation from ponds and return flows to the Little Lost River, provided the ponds or the return channels are not reconstructed to increase the subirrigation beyond the acreage traditionally subirrigated. Water shall not be diverted from ground water for the sole purpose of filling ponds or subirrigating. Surface water can only be diverted for root zone storage (presumably subirrigation) pursuant to license no. 33-02133 when all prior surface water rights are being satisfied.

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23. Water rights cannot be obtained by adverse possession if the rights are being delivered by a watermaster in a water district. Idaho Code § 42-607.

24. The Canal Co. is not entitled to ownership of water rights alleged to be owned by Sage Willow.

ORDER

IT IS HEREBY ORDERED that transfer no. 3785 is VOIDED.

IT IS FURTHER ORDERED that license no. 33-02090 and license no. 33-02091 and portions of all other rights diverted and directly applied to lands in excess of 1412 acres are FORFEITED.

IT IS FURTHER ORDERED that application for transfer nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227 are **CONDITIONALLY APPROVED** provided the applicant not irrigate more than 1,412 acres within the place of use proposed by the applications, and the applicant complies with the following:

1. A proposal must be submitted to the Department of Water Resources within 56 days of the final disposition of this dispute or after any final appeal period has run. The plan must be submitted to the protestants for review and comment. Comments must be submitted to the Department and to the applicant one month following submittal of the plan. A hearing may be requested by either party within sixty (60) days of submittal of the plan.

2. Failure to submit the plan is cause for the department to revoke its conditional approval of the application for transfer.

IT IS FURTHER ORDERED that the Department will issue another recommended decision if additional testimony is required following submittal of the plan.

DATED this 7th day of November, 1995.

Gary Spackman

GARY SPACKMAN, Hearing Officer

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th day of November, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **AMENDED RECOMMENDED ORDER** to the following:

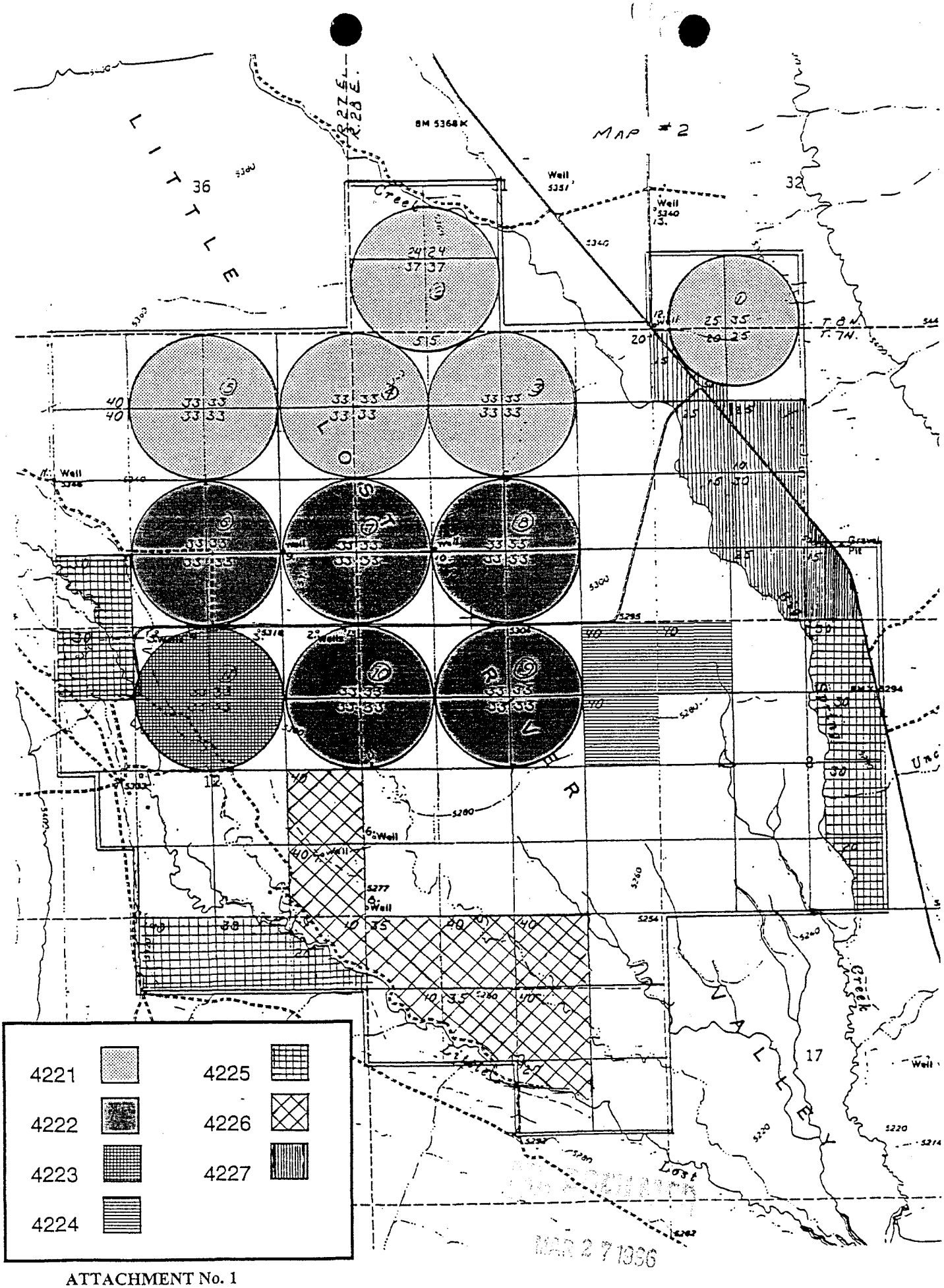
Sage Willow, Inc.
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

Blaine County Canal Co.
HC 65 Box 1018
Howe, ID 83244

Michael C. Creamer
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, ID 83701

Julie L. Yarbrough
JULIE L. YARBROUGH
Senior Secretary

MAR 27 1996



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ATTACHMENT No. 1

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226, AND 4227 IN THE NAME OF SAGE WILLOW, INC.	ORDER GRANTING PETITION FOR RECONSIDERATION

On June 5, 1995, Sage Willow, Inc. filed a petition for reconsideration and a supporting brief. Rule 720.a. of the Department's Rules of Procedure states that the hearing officer must dispose of any petition for reconsideration within 21 days of its receipt or the petition will be considered denied by operation of law. This order responds to the petition for reconsideration.

Counsel for Sage Willow raises legal issues which I struggled with while preparing the recommended decision. I will discuss the issues in the following analysis section.

ANALYSIS

Resumption Use

Sage Willow's analysis of the Idaho cases which discuss resumption of use in greater detail is not convincing. Although resumption of use is mentioned in several cases, the legal theory is not used as a basis for a decision in most of them. Nevertheless, it is worth discussing how resumption of use fits into the doctrine of prior appropriation and hydrologic reality.

The recommended decision does not attempt to abrogate the resumption defense. It narrowly limits its application. If the resumption defense is liberally applied as proposed by Sage Willow,

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it will conflict with prior appropriation doctrine, it will conflict with sound hydrologic reasoning, and it will all but prevent a prior appropriator from ever contesting a resumption of use.

Where many waterusers divert water from a stream, a single junior appropriator cannot monitor all of the senior uses of water, and file specific claims to forfeited water when a five year forfeiture period has passed. Furthermore, if the water is delivered by a watermaster in a water district, Idaho law prevents ownership by adverse possession. Difficulty of monitoring is aggravated when the relationship between ground water and surface water is recognized. Not only would the junior user be required to monitor the use of surface water by senior water right holders, but would also be required to monitor all uses of ground water in the basin. Holding a water right ought to be enough.

The Department of Water Resources has been criticized in recent years for ignoring the relationship between surface water flows and tributary ground water, and for not developing regulations for the conjunctive management of related water resources. It has also been criticized for liberally issuing ground water permits without thought of the effect on other waterusers. If each isolated permit were reviewed without consideration of all other permits an expert might conclude the impact is minimal, and lawyers could argue there is no actual injury. But when the cumulative effect of all permits is considered the injury could be substantial.

Recent legal action and legislative enactments have prompted

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the Department to initiate a broad water measurement program, and to promulgate rules and regulations to deliver water rights to both surface water and ground water users who are being injured by ground water withdrawals. This may result in curtailment of some ground water diversions.

Sage Willow proposes that because there are no specific claims to the Sage Willow ground water rights, the Department should ignore the certain hydrologic relationships and ignore the cumulative effect that Sage Willow's proposed resumption, and all other resumptions (if the resumption defense is liberally applied), would have on other water users.

I recognize that no one has filed a petition for delivery call and asked for conjunctive management. The Department should not ignore hydrologic reality in approving a resumption of use, only to cause a greater delivery problem later when the rights may be conjunctively managed. The Department would be inconsistent if it recognized the resumption of use as proposed by Sage Willow. Sage Willow does not persuade me that the conclusions of law in the recommended decision regarding the resumption of use should be reconsidered.

Voiding of Transfer No. 3785

It is clear that water right no. 33-02091 was forfeited/abandoned. Failure to respond to the forfeiture question on the application for transfer form, combined with testimony at the hearing reveals that the forfeiture issue was not addressed by the applicant. The forfeiture issue was also not explored by the Department prior to approval.

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On the other hand, the application was properly published, giving interested parties notice regarding the proposed change. Furthermore, the transfer was approved by the Department although the conditions imply that some issues, including forfeiture, might be reviewed by the adjudication court.

I am troubled by Sage Willow's implicit allegations that because the Department assisted in the preparation of the application, that perhaps the Department should be estopped from raising the forfeiture issue. The applicant goes so far as to state that "[w]e are puzzled as to why IDWR, which has access to the records, transferred right no. 33-02091 to land, most of which was already covered by right no. 33-02090." Much of Sage Willow's discussion attempts to absolve the applicant of any responsibility for ensuring the correctness of the application, to blame the Department for its inadequacies. It is sad that the Department may need to withdraw from assisting the public to insulate itself from accusations that it was responsible for an applicant's decisions. The applicant should bear the responsibility of properly completing an application, and when signing a document, know what is being represented.

Nonetheless, the Department approved transfer no. 3785, and Sage Willow should be able to rely on the Department's decision in proceeding with the project. Perhaps there should be some application of res judicata with respect to administrative matters. Or perhaps the resumption of use doctrine should be invoked if the Department approved the transfer, and the wateruser resumed the use prior to an objection.

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I debated whether I should issue a decision regarding this issue, immediately or whether I should grant the petition for reconsideration, and notify the parties. After reviewing Rule 720.a., I conclude that if the hearing officer is willing to reconsider a decision, both parties should be apprised of the decision, and an opportunity should be given to brief the issues. I note that late on June 22, 1995, I received a brief from James Mays, and Mays Land & Livestock, which I have not fully reviewed. This issue along with one other issue will be reconsidered. A briefing schedule will follow in the order portion.

The Frew Place

I followed the findings and recommendations of Terry Scanlin regarding the place of use rather than the findings of Dr. Charles Brockway because: (1) Scanlin was attempting to define historical use, and Brockway analyzed what could be physically irrigated; and (2) Scanlin's place of use estimates were supported by Vance Hawley's testimony of historical use. Because the decision was based on an analysis of historical use, not what could be physically irrigated, and because of Hawley's supporting testimony, Scanlin's numbers were more credible. My finding of credibility does not imply that Dr. Brockway is dishonest. On the contrary, I've always found Brockway to be honest and forth right. The decision simply judges that historical use, not what can be physically irrigated, is the basis of my review.

Sage Willow rightfully points out, however, that Hawley did not testify about irrigation of the Frew place, and, without the supporting evidence, the estimate by Scanlin may not rise to the

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level of clear and convincing evidence justifying a reduction in acreage. This issue may also be addressed by the parties.

ORDER

IT IS HEREBY ORDERED that Sage Willow's petition for reconsideration is GRANTED with respect to the issue of whether use of water pursuant to right no. 33-2091 should be authorized because of the approval of transfer no. 3785, and whether the number of acres authorized for irrigation pursuant to rights nos. 33-02086 and 33-07018 (Frew place) was correct.

IT IS FURTHER ORDERED that any briefs, in addition to those already filed, must be filed on or prior to July 14, 1995.

Dated this 23rd day of June, 1995.

Gary Spackman
Hearing Officer

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I hereby do certify that on this 23rd day of June, 1995, I mailed a true and correct copy of the foregoing ORDER GRANTING PETITION FOR RECONSIDERATION to the following.

Kris Rhodes
Secretary

Kent Foster
PO Box 50130
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Idaho Falls ID 83405

Michael C. Creamer
Givens Pursely & Huntley
PO Box 2720
Boise ID 83701

Blaine County Canal Co
C/O Wade T Williams
HC 65 Box 1032
Howe ID 83244

Eastern Region

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226 AND 4227 IN THE NAME OF SAGE WILLOW, INC.	**RECOMMENDED ORDER**

Sage Willow, Inc. (Sage Willow) filed seven applications for transfer with the Idaho Department of Water Resources (Department). Some of the applications were protested by the Blaine County Canal Co. (the Canal Co.), James Mays, Mays Land and Livestock Co. (collectively referred to as "Mays") and Simplot Land and Development. Simplot Land and Development Co. subsequently withdrew its protest.

After expiration of the protest period Mays discovered they had not protested all of the applications for transfer filed by Sage Willow. Mays filed a motion to amend the protest to include protests opposing all of the transfers, and to add issues of forfeiture and enlargement to the issues raised by the original protests. The motion to amend was granted prior to the hearing.

On January 18, 1995, the Canal Co. filed a motion to amend its protests. The hearing officer initially denied the motion to amend from the Canal Co. because it was untimely. At the hearing, however, the hearing officer revoked the order denying the motion to amend, and granted the motion to amend. The Canal Co. and Mays participated as full parties in all the proceedings. Evidence having been presented at a hearing conducted on January 31 and February 1, 1995, the hearing officer recommends the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER:

FINDINGS OF FACT

1. In 1989, Sage Willow, Inc. (Sage Willow) acquired a ranch, located near of the confluence of the Little Lost River and Spring Creek, commonly known as the Knollin Ranch. At the same time Sage Willow also acquired other parcels contiguous to or nearby the Knollin Ranch.

2. One parcel is located approximately 1½ miles northwest of Knollin place. The parcel is divided into two pieces by the east 16th line of Sec. 35, Twn. 27N, Rge. 28E, B.M. The property

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located on the west side of the 16th line is commonly known as the Bird Ranch. The property located east of the 16th line is commonly known as the Homestead Place.

3. Another parcel is located on the north side of an east-west county road, which was the northern boundary of the original Knollin Ranch, and will hereafter be referred to as the "North of Road Place."

4. In 1993, Sage Willow acquired additional land contiguous to and northeast of the Knollin Ranch from David and Terry Hawley (the Frew Place).

5. The Knollin Ranch was originally owned by A.J. Knollin. Because of financial difficulties, A.J. Knollin quitclaimed his interest in the Knollin Ranch to the first mortgage holder in 1942. In the same year, the Canal Co. purchased the Knollin Ranch from the mortgage holder. During the late 1940's, the Canal Co. sold the ranch land to L.R. "Slim" Hawley (Hawley). The earliest priority water rights appurtenant to the Knollin Ranch were not conveyed to Hawley, however, but were retained by the Canal Co., and later transferred to downstream lands. The Canal Co. rights are some of the earliest water rights diverted from the Little Lost River, bearing priority dates of 1879 to 1891.

6. Several late priority surface water rights were retained or developed on the Knollin Ranch. The rights are described below:

Irrigation Rights

Water Right No.	CFS	Priority	Source
33-00069	3.2	06/01/1908	Little Lost River
33-00070	2.8	10/01/1906	Spring Creek
33-00071	3.2	03/15/1909	Spring Creek
33-00072	.8	05/01/1908	Little Lost River
33-00073	6.4	04/01/1912	Spring Creek
33-00074	1.6	08/06/1913	Little Lost River
33-00076	6.8	04/01/1913	Little Lost River
33-00078	3.2	10/15/1913	Little Lost River
33-00079	1.6	04/01/1912	Little Lost River
33-00080	.8	05/01/1908	Spring Creek
33-00081	.8	05/01/1908	Spring Creek
33-00082	.8	05/01/1908	Spring Creek
33-02007	2.9	02/15/1909	Little Lost River
33-02008	6.4	06/12/1909	Spring Creek
	41.3		

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Soil Root Zone Storage Right.

Water Right No.	Acre Feet	Priority	Source
33-02133	2,960	06/02/1949	Little Lost River Spring Creek

6. The surface water rights could only be delivered to Hawley during high water flows, however, and there was insufficient water supply to irrigate the Knollin Ranch. Hawley obtained two licenses to irrigate the Knollin and Bird Ranches with ground water, numbered 33-02057 and 33-02083. The ground water rights for the Knollin and Bird Ranches are described as follows:

Water Right No.	CFS	Priority	Source
33-02057	24.0	02/01/1950	8 wells # 1-8
33-02083	5.0	08/23/1957	8 wells #1-8

7. In addition, ground water rights were also perfected for the Frew Place, which Sage Willow acquired from David and Terry Hawley. The Frew Place rights are listed below:

Water Right No.	CFS	Priority	Source
33-02086	4.1	01/12/1959	well # 13
33-07018	3.26	09/12/1972	well # 12

8. Finally, Hawley and some of his contemporary relatives obtained patents for two parcels of federal property pursuant to the Desert Land Entry Act. Two licenses to appropriate ground water were issued by the Department for these parcels. License no. 33-02091 was perfected for irrigation of the Homestead Place. License no. 33-02090 was perfected for irrigation of the North of Road Place. The following describes components of these rights:

Water Right No.	CFS	Priority	Source
33-02090	5.93	12/21/1959	well # 11
33-02091	4.36	01/22/1960	well on Bird Ranch

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9. The places of use and points of diversion prior to Sage Willow's acquisition for rights described in the preceding paragraphs are depicted on the map labeled as Applicant's Exhibit No. 1"a."

10. Sage Willow filed applications for transfer nos. 4221, 4222, 4223, 4224, 4225, 4226 & 4227, proposing to change the place of use for all of the rights listed above. The multiple transfers were filed to define portions of the water rights that would be appurtenant to each of seven independent delivery systems. Applications nos. 4221, 4222 and 4223 propose the irrigation of land primarily north of the original Knollin Ranch with pressurized circular pivots. Applications nos. 4224, 4225, 4226 and 4227 propose gravity irrigation of other land. The proposed places of use are depicted on a map labeled as Applicant's Exhibit Nos. 1"b." For further clarity, a map depicting the system (or place of use) described by each of the applications is attached. The original and proposed places of use are not numerically described by this decision because of their size and complexity.

11. A geologic formation near the confluence of the Little Lost River and Spring Creek retards the southward flow of ground water in the underlying aquifer, causing the ground water and surface water to merge in the southern half of the Knollin Ranch. The Little Lost River loses water to the underground aquifer above the Knollin Ranch, but as the groundwater and surface merge, the Little Lost River and Spring Creek gain water as they flow through the Knollin Ranch. The merger of the ground water and surface water continues downstream several miles to the Canal Co. diversion.

12. The Little Lost River and the aquifer underlying the Little Lost River Basin below the Knollin Ranch are dependent on water flows which pass the Knollin Ranch, either on the surface, or underground.

13. The Hawley wells were drilled into the shallow aquifer connected to the surface water. There is a direct hydrologic connection between the water pumped by the Hawley wells and the surface water that flows downstream into the Little Lost River below the Knollin Ranch.

14. Vance Hawley, a son of Slim Hawley, grew up in the Little Lost Valley, and helped farm the Knollin and Bird Ranches as a youth, although he did not reside on the Knollin Ranch. After attending college, Vance Hawley returned and assisted in farming the property from 1970 through 1978. During these eight (8) years, he did not manage the farm, but resided on the Knollin Ranch. From 1978 through 1980 he leased the Knollin Ranch property. After the lease expired, he was acquainted with the operation of the farms until 1989, when the Knollin Ranch was sold to Sage Willow.

15. Vance Hawley was also aware of the operation of the Bird Ranch, the Homestead Place, the North of Road Ranch, and other surrounding lands.

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16. Vance Hawley testified about the extent of beneficial use of water on the properties now owned by Sage Willow. He testified that the total number of acres irrigated on the Bird Ranch did not exceed 297 acres. He also testified that irrigation of individual parcels on the Knollin Ranch totaled 879 acres.

17. Vance Hawley testified that the Homestead Place, located just east of the Bird Ranch, was irrigated with water pursuant to water right no. 33-02091 in the early 1960's only for the purpose of gaining a patent for federal ground. He testified that the land was converted back to early season dry range land and was never irrigated in the late 1960's, all of the 1970's and the 1980's until Sage Willow bought the property.

18. Vance Hawley also stated that the North of Road Place, patented by his aunt and uncle, located north of the main east-west access road into the Knollin Ranch, was irrigated with water pursuant to water right no. 33-02090 only for the purpose of gaining a patent for federal ground, that was converted back to early season dry rangeland. He testified that water had not been applied to the lands pursuant to license no. 33-02090 during the late 1960's, all of the 1970's, and the 1980's until the property was purchased by Sage Willow..

19. James Mays, a lifelong resident of the Little Lost Valley, testified he was familiar with both the Homestead Place and the North of Road Place, and had not observed any irrigation on the Homestead Place or North of Road Place, at least until Sage Willow acquired the parcels.

20. Vance Hawley drew the boundaries of and estimated the number of acres irrigated during his acquaintance with the property. This land is depicted on Protestants Exhibit No. 3. The estimate includes lands irrigated with both surface water and ground water. He estimated that no more than 1176 acres were irrigated within the boundaries of the Knollin Ranch and Bird Ranch.

21. The testimony of Vance Hawley is the most accurate and credible evidence regarding the traditional use of water on the entire Sage Willow land holdings until 1989.

22. Terry Scanlin, an engineer and geologist hired by Mays, consulted aerial photographs, and estimated that approximately 230 acres were irrigated in the Frew Place. According to the testimony of Vance Hawley, James May and Terry Scanlin, the total acreage irrigated prior to 1989 was 1412 acres.

23. In 1989, Sage Willow purchased the Knollin Ranch, the Bird Ranch, the Homestead Place and the North of Road Place. Jerry Pancheri was hired as the manager of the ranch, and was instructed to apply the water to the land as efficiently as possible and to recommend changes to the system to more efficiently use the water.

24. Pancheri testified about his attempts to use the water and identified land irrigated during the years he managed the farm. Pancheri identified on Protestants Exhibit No. 21 the lands which were irrigated in various years. He approximated the areas irrigated in several individual

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parcels, and the parties summarized his estimates in their briefs, as set forth below:

Year	Total Number of Acres Irrigated Applicant's Estimate	Protestant's Estimate
1989	1300	1400
1990	1560	1740
1991	2000	2004
1992	2130	2100
1993	2390	-----

25. During 1990 and 1991, Pancheri determined that several preexisting ponds located on the Knollin property should be repaired and filled with water. These ponds, when filled with water, contributed significant sub-water to the shallow aquifer and sub-irrigated some of the lower elevation pastures located on the Knollin Ranch.

26. Pancheri also determined that the lands within the Bird Ranch and the Homestead Place were the poorest agricultural lands of the Sagewillow holdings and recommended that the water rights appurtenant to the Bird and Homestead Place be transferred to other lands located north of the Knollin Ranch. These lands north of the Knollin Ranch were acquired by Jerry Pancheri, and subsequently by Sage Willow, through an exchange of lands with the Bureau of Land Management.

27. In October, 1990, Sage Willow, through its president, Edmund Dumke, applied to transfer license no. 33-02091 (transfer no. 3785) from the Homestead Place to land located in the SE¼ of Section 1, T7N, R27E, and the SW¼ and SE¼ of Section 6, T7N, R28E. The transfer application was signed by Dumke as president of Sage Willow. Part 1 of the transfer application requests the applicant to "[d]escribe the affect on the land now irrigated if the place of use is changed pursuant to this transfer." Dumke responded that "[w]e will dry farm this old place of use." There was no response to Question 10 in Part 2 of the application which asks "To your knowledge, has any portion of this water right undergone a period of five (5) or more consecutive years of non-use?" By signing the application, Dumke asserted that "no one will be injured by such change and that the change does not constitute an enlargement in use of the original right."

28. Dumke testified at the hearing that he had no personal knowledge regarding license no. 33-02091. He did not personally know whether a well was located at the licensed point of diversion or if any irrigation had occurred pursuant to license no. 33-02091 on the licensed place of use. Dumke stated that he relied entirely on others to prepare the application.

29. Harold Jones, an employee in the Department's Eastern Regional Office, testified that the Department's current policy is to rely on the representations made in the transfer application for a licensed right if no protests are filed. In reviewing the Sage Willow application, the Department

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did not independently investigate the existence of a well and pump at the licensed point of diversion, or diversion for beneficial use on the licensed place of use for license no. 33-02091.

30. Transfer no. 3785 approved a change in the place of use for license no. 33-02091 from the Homestead Place to part of the North of Road Place. The transfer resulted in an overlap of license no. 33-02091 on the place of use for license no. 33-02090. One of the purposes of the pending transfers is to correct transfer no. 3785 by moving license no. 33-02091 to lands not already described as a place of use by license no. 33-02090.

31. In 1991, two new pivots (pivots 6 and 7) were installed on the lands in Sections 1 and 6, and irrigation commenced that same year. *(See* Protestants Exhibit No.13, 1991 Landsat Image and testimony of Mr. Pancheri and Mr. Scanlin.) Although the pivots were installed and operated in 1991, the record indicates that approval of transfer no. 3785, which authorized license no. 33-02091 to be used in Sections 1 and 6 was not obtained until October of 1992.

32. Vance Hawley testified that lands owned by Hawley were flood irrigated, and many of the fields were only irrigated once during the season. When hay was harvested from these lands, only one half to one ton per acre of hay was harvested, compared to a full average harvest of approximately three tons per acre for the Little Lost River Valley.

33. Dr. Charles Brockway, P.E., was hired by Sage Willow in 1989 to conduct various studies regarding the Little Lost River Drainage and its hydrologic and hydrogeologic characteristics, particularly with reference to the Sage Willow holdings. In preparation for the hearing, Brockway walked the Sage Willow property, noted existing ditches and the location of abandoned ditches thereon, and consulted aerial photography to determine the number of acres that could have been irrigated on the Sage Willow property. Brockway prepared a spreadsheet showing the acreage owned by Sage Willow and estimated consumptive use prior to the Sage Willow purchase of the property.

34. Brockway concluded that the consumptive use prior to the Sage Willow purchase was 10,192 acre feet. He also testified that consumptive use increased approximately 760 acre feet between 1989 and 1992, and will increase another 137 acre feet if the applications for transfer are approved.

35. Brockway also testified that the additional 137 acre foot depletion would only reduce stream flows to the Little Lost River by 0.20 cfs, and the effect on the aquifer levels would not be detectable.

36. Terry Scanlin used testimony by Vance Hawley regarding the total number of acres traditionally irrigated in the Knollin, Bird and Homestead properties, consulted aerial photography, and estimated a consumptive use prior to Sage Willow acquisition of the 9,077 acre feet. Based upon allegations of non use on the Home Place, and those lands to which license no. 33-02090 was appurtenant, Scanlin concluded the approval of these transfers would increase consumptive use by

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1504 acre feet annually from the pre 1989 consumptive use values.

37. Furthermore, in Exhibit No. 20, Scanlin disagreed with the high end consumptive values for crops irrigated with surface water used by Brockway, and reduced the initial consumptive use values by 20 percent to account for the testimony of Vance Hawley regarding reduced crop harvest. He calculated a pre-1989 consumptive use of 8,273 acre feet. He estimated consumptive use would increase by 1,809 acre feet after the transfer is approved.

38. The assumptions by Scanlin are supported by direct evidence and testimony presented by Vance Hawley and are coupled with a careful review of aerial photography. These factors provide a more credible estimate of the acres irrigated and the total consumptive use.

39. Protestant's Exhibit No. 18 proposes prorata reductions in flow rates and acreage irrigated for each of the applications based on a ratio between the licensed places of use and the historical places of use as established by Vance Hawley. Despite detailed consumptive use calculations by two expert witnesses, Mays' proposal is based solely on irrigated acreage comparisons, not consumptive use comparisons.

40. Don Isham, a prior officer of the Canal Co. testified that, to his knowledge, the later in time surface water rights, alleged to be owned and proposed for transfer by Sage Willow, have been delivered to the Canal Co. for decades. He testified that, although the application for transfer that moved the water from the Knollin Ranch to the Canal Co. only included the early in time rights, the Canal Co. was entitled to the rights claimed by Sage Willow because of the long history of delivery.

41. The watermaster for the Little Lost River testified that in 1993, he delivered some of the surface water rights claimed by Sage Willow to Sage Willow.

CONCLUSIONS OF LAW

1. The parties agree about most of the facts pertaining to the traditional use prior to Sage Willow acquiring the property, and the expanded use of Sage Willow following its acquisition. There is some disagreement regarding the consumptive use calculations of the expert witnesses and which consumptive use numbers are most accurate. Both parties admit, however, that Sage Willow's proposal will increase the consumptive use on the Sage Willow property.

2. The first issue to be resolved is whether all or portions of the original water rights were lost by abandonment or forfeiture. Water Right Nos. 33-02090 and 33-02091 were forfeited because of non-use for over 20 years. Forfeiture was established by clear and convincing evidence.

3. Furthermore, Vance Hawley unrefutedly testified that the lands described as a place of use for water rights 33-02090 and 33-02091 were not irrigated, and intentionally reverted back to dry grazing land following the issuance of the patents from the federal government. His testimony

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establishes the requisite intent for abandonment of the water rights, not requiring a five-year forfeiture period. I conclude, alternatively, that water rights 33-02090 and 33-02091 were abandoned.

4. One of the most difficult issues raised in this matter is the status of transfer no. 3785. The application for transfer was incomplete and contained representations that were not correct. Dumke explicitly represented, by signing the affidavit, that the right had not been forfeited, and that there would be no injury or enlargement as a result of the application. An integral portion of the application, asking whether the applicant knew of any continuous, five year period of non-use, was left blank. The Department did not independently investigate the possibility of forfeiture. In addition, the applications for transfer now pending were filed to revise what was previously approved.

5. There is no evidence that Dumke or Sagewillow fraudulently misled the Department, or that the transfer is void because of fraud. Because the pending applications for transfer attempt to correct previously approved transfer no. 3785, and because there were misrepresentations and omissions of fact in the filing of application for transfer no. 3785, transfer no. 3785 is voided, and the Department is not bound by the previous approval. Furthermore, although there has been some development pursuant to transfer no. 3785, Sage Willow constructed two of the pivots prior to approval of the transfer 3785. Finally, this approval will recognize sufficient water rights to legalize the use of water by the pivots which were constructed.

6. Because of the reasons set forth above, the finding of forfeiture and abandonment supersedes the prior approval of transfer no. 3785.

7. The combined testimony of Vance Hawley and Terry Scanlin regarding the total place of use for the remainder of the Bird Ranch, the Knollin Ranch, and the Frew Place establishes a historically irrigated acreage of 1,412 acres during a period of at least two decades.

8. The total number of acres authorized for irrigation pursuant to water right nos. 33-02086 and 33-07018 is 230 acres. The total number of acres authorized for irrigation pursuant to water right nos. 33-02057 and 33-02083 is 1,176 acres. Combined surface water and ground water irrigation should not exceed 1,412 acres, except for sub-irrigation. The total number of acres which can be irrigated by applying water (surface water and ground water) directly to the land is 1,412 acres. The right to irrigate any additional lands described by ground water and surface water rights in excess of 1,412 acres has been forfeited, except for benefits derived by subwater which will be discussed later.

9. Applicants do not admit forfeiture or abandonment, but emphasize the doctrine of resumption of use as a defense against forfeiture. Several Idaho court cases generally mention the resumption of use defense to forfeiture. Only two of the decisions find that there may have been a forfeiture, and that resumption of use might resurrect the water right.

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10. Wagoner v. Jeffrey, 66 Idaho 455, 162 P.2d 400 (1945) was a dispute between a water right holder who had perfected rights in wells located on federal property, and another settler who subsequently obtained a patent to the property where the wells were located. More than five years of nonuse elapsed. When the water right holder unsuccessfully attempted to resume his use, the subsequent settler, even though he had no water rights in the wells, attempted to block the resumption by alleging forfeiture. In Wagoner, there was no junior water right holder claiming a right to the water which was being diverted out of the wells. The resumption doctrine was applied because there was no intervening claim to the water.

11. In Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952), a water user attempted to transfer water rights diverted from the Big Lost River approximately 20 miles downstream. The protestants alleged the rights were forfeited. Unrefuted evidence established that the water right had not been applied to the original place of use for several decades, but the evidence also established that, at least for a portion of that period, water was delivered to the proposed place of use, and assessments for the delivery of the water had been paid. In its holding, the Idaho Supreme Court said:

> Thus, bills were rendered and payments made by respondent for water delivered by the District. The District showed no water was deliver to [the old place of use], so the water must have been, and two of the exhibits show the water was, delivered to the [proposed place of use].

73 Idaho at 159.

12. The court seemed to be concluding that the water right was not forfeited because it was delivered to other lands. Nevertheless, the court subsequently stated, quoting Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944):

> "Although statutory abandonment of a water right has occurred, forfeiture is not effective if after five-year period original owner or appropriator resumes the use of the water prior to claim of right by a third party."

73 Idaho at 160.

13. The court explained the quotation with two inconsistent statements, the first sounding as if the right had been forfeited but resumed, and the second sounding as if the right had never been forfeited:

> No one claims this particular decreed water by adverse possession and clearly, so far as this proceeding is concerned, it was in part at least used by respondent on some of his Arco lands before it was claimed it had been forfeited.

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The trial court was justified in holding that water had been so used by respondent that he had not abandoned or forfeited his water rights . . ..

73 Idaho at 160.

14. Other cases discussed the resumption defense, but decided that the right was not forfeited, Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944) (held not abandoned, and was not a resumption case); Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937) (held burden of proof on the party alleging forfeiture not satisfied). Another case, Jenkins v. State Dept. of Water Resources, 103 Idaho 384, 647 P.2d 1256 (1982), held that the right was forfeited, but proof was not offered regarding the resumption of use defense.

15. The law does not require that a claim of ownership to the specific water delivered by a specific water right must be filed prior to resumption of use to prevent the resumption. Language in Zezi that the use must be resumed prior to other appropriations, and the discussion of movement up the priority ladder by junior right holders in Jenkins narrowly limits when a water right can be resumed after it is forfeited.

16. Recognition of the resumption of use defense would frustrate the doctrine of prior appropriation in streams where (1) junior appropriators have established water rights and have relied on water not diverted by a senior user, or (2) in this case, where senior surface water users and other water right holders have relied on related ground water not diverted by Sage Willow's predecessor. While the prior appropriation doctrine is crafted to protect water users, by delivering in order of priority, its requirement of beneficial use of water prevents a water right holder from retaining unused water rights for a long period of time, and then reasserting the right to the detriment of other right holders.

17. Other users are not required to assert a specific claim to the water rights or water represented by rights held by the user attempting to resume his use. The establishment of a water right is sufficient claim to the water. The resumption doctrine cannot restore portions of water rights forfeited by Sage Willow's predecessor in interest to the detriment of other water right holders.

18. Detailed consumptive use comparisons by both parties implicitly invite the Department to microscopically look at the application of water upon the place of use and restrict the future consumptive use based on an estimated consumptive use. Although consumptive use was not defined by the initial water rights which were licensed or decreed, there is a maximum consumption which the use of a water right should not exceed. Within the limitation of the maximum consumptive use value, the water right holder should be able to plant more or less consumptive crops depending on his needs. Furthermore, there ought to be some incentive for increasing the efficiency of application. Finally, if there is a pattern of rotation within the farming operation, a portion of a right should not be lost because a water right holder's crops did not consume the maximum consumptive use value.

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19. If the Department evaluated the consumptive use microscopically, the Department would be required to:

a. Determine the traditional acres irrigated;

b. Determine how much water was traditionally consumed by crops grown on those acres;

c. (i) evaluate how much more efficiently the proposed method of irrigation is or,
(ii) evaluate how much more water will be consumed by the anticipated crop use;

d. (i) further reduce the acres irrigated to prevent increased consumption, or
(ii) further reduce the volume and flow diverted to prevent increased consumption.

20. Because the protestant proposes restrictions based on historical acres irrigated, not based on consumptive use, the Department declines, in this case, to limit the total diversion based on increased consumptive use which may result from improved efficiency of water application. Total diversion volumes and consumptive uses values will be assigned according to Department standards. Flow rates will be reduced to a rate of 0.02 cfs per acre unless Sage Willow can demonstrate the need for addition volume or diversion rate.

21. These applications for transfer can only be approved if the applicant identifies 1,412 acres to which water will be physically diverted and applied by some means other than subirrigation. Annual volume for physical diversion, delivery and application should be limited to 4,942 acre feet. Annual consumptive volume should be limited to 3,530 acre feet. The diversion rate should be limited to 28.24 cfs.

22. A proposal identifying 1412 acres, and the individual rights that will be appurtenant to the lands, must be submitted to the Department. The Department will allocate volumes and diversion rates to each right.

23. As part of the proposal, the applicant may continue to derive the benefits of subirrigation from ponds and return flows to the Little Lost River, provided the ponds or the return channels are not reconstructed to increase the subirrigation beyond the acreage traditionally subirrigated. Water shall not be diverted from groundwater for the sole purpose of filling ponds or subirrigating. Surface water can only be diverted for root zone storage (presumably subirrigation) pursuant to license 33-02133 when all prior surface water rights are being satisfied.

24. Water rights cannot be obtained by adverse possession if the rights are being delivered by a watermaster in a water district. Idaho Code § 42-607.

25. The Canal Co. is not entitled to ownership of water rights alleged to be owned by Sage Willow.

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ORDER

IT IS HEREBY ORDERED that Transfer No. 3785 is VOIDED.

IT IS FURTHER ORDERED that License no. 33-02090 and license no. 33-02091 and portions of all other rights diverted and directly applied to lands in excess of 1412 acres are FORFEITED. Alternatively, License no. 33-02090 and license no 33-02091 are ABANDONED.

IT IS FURTHER ORDERED that Applications for Transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226 and 4227 are **CONDITIONALLY APPROVED** provided the applicant not irrigate more than 1,412 acres within the place of use proposed by the applications, and the applicant complies with the following:

1. A proposal must be submitted to the Department of Water Resources on or before November 1, 1995. The plan must be submitted to the protestants for review and comment. Comments must be submitted to the Department and to the applicant one month following submittal of the plan. A hearing may be requested by either party within sixty (60) days of submittal of the plan.

2. Failure to submit the plan is cause for the department to deny the application for transfer.

IT IS FURTHER ORDERED that he Department will issue another recommended decision if additional testimony is required. If not, the Department will issue a final decision after the proposal is submitted.

DATED this 22nd day of May, 1995.

Gary Spackman

GARY SPACKMAN, Hearing Officer

MAR 2 7 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 23rd day of May, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **RECOMMENDED ORDER** to the following:

Sage Willow, Inc.
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

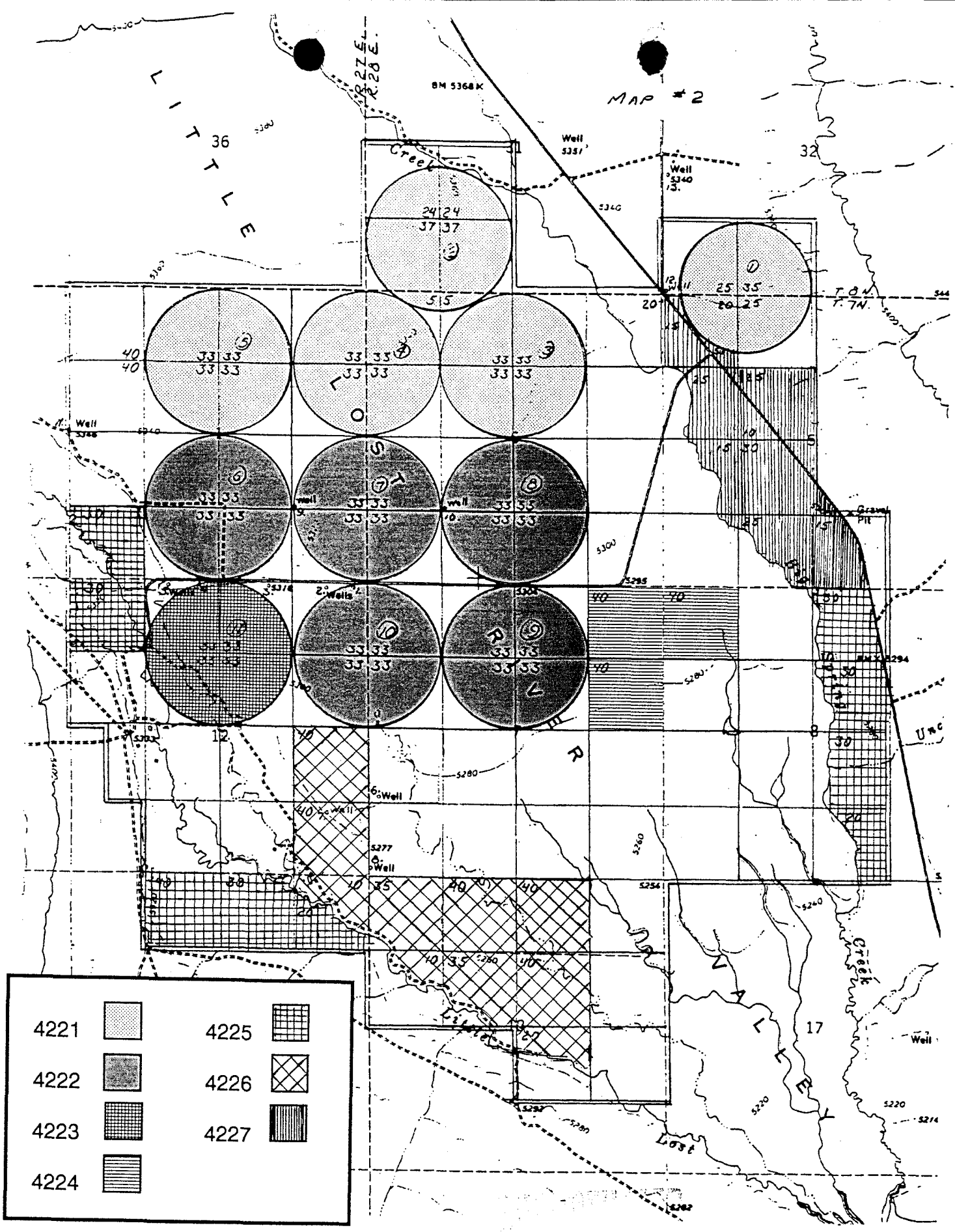
Blaine County Canal Co.
HC 65 Box 1018
Howe, ID 83244

Michael C. Creamer
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, ID 83701

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

MAR 2 7 1996



ATTACHMENT No. 1

Form 222
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Department of Water Resources

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4224

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of the water rights.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02057D	02/01/1950	1.94 cfs	Irrigation	04/01 to 11/01
33-02083D	08/23/1957	.41 cfs	Irrigation	04/01 to 11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST OF RIGHTS			to
				to

2. Total amount of water being transferred 9.38 cubic feet per second and 503 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	NE	12	7N	27E	Butte 2	Well No. 3
	SW	SW	NE	2	7N	27E	Butte 1	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte 3	Lake Headgate
	NE	NW	SW	5	7N	28E	Butte 4	Big Spring Creek Headgate

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7	40			40													80
		8						40											40

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PART 1

6. General Information:

a. Description of diversion system Well and electric pump will discharge water into existing ditch system which conveys water east to the place of use. During highwater periods, the headgates on Little Lost River and one on Big Spring Creek divert water into the same ditch system.

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

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
There will be no effect except to better organize the existing rights.

d. Remarks:
The groundwater rights are the primary rights. The surface rights have such late priorities water is only available sometimes during the spring runoff. When and to the extent water is available, it is used in place of, and to save expense of operating, the well. In that regard, the surface water supplies are supplemental to the groundwater supplies.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Pursuant to Final Order.

*Water right Nos.:
33-02057D, -02083D, -00069A, 00070A, -00071A, -00072A, -00073A, -00074A, -00076A, -00078A, -00079A, -00080A, 00081A, -00082A, -02007A, -02008A & 02133A.

Witness my hand this 12th day of March 19 96

Karl J. Dreher, Director

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ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

Parts "A"

RIGHT NO.	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	.54 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	.48 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	.54 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	1.09 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.27 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	1.16 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	.54 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.27 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	.49 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	1.09 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	503 Ac-Ft	Irrigation & Storage	04/01-11/01

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Lot	¼	¼	¼	Sec.	Two[illegible]ne.		County	[illegible]ocal name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	~~NE~~	~~NW~~	~~NE~~	~~12~~	~~7N~~	~~27E~~	~~Butte~~	~~Well No. 3~~
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

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ATTACHMENT NO. 2 TO PAGE 5

Twp.	Rge.	Sec.	NE ¼ NE ¼	NE ¼ NW ¼	NE ¼ SW ¼	NE ¼ SE ¼	NW ¼ NE ¼	NW ¼ NW ¼	NW ¼ SW ¼	NW ¼ SE ¼	SW ¼ NE ¼	SW ¼ NW ¼	SW ¼ SW ¼	SW ¼ SE ¼	SE ¼ NE ¼	SE ¼ NW ¼	SE ¼ SW ¼	SE ¼ SE ¼	Totals
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

...CLAIMED
2 6 1996

Total acres 1483

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02057 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water ground water tributary to _____
4. Date or priority 02/01/1950
5. Water is used for the following purpose:
   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SEE ATTACHMENT #1				

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SEE ATTACHMENT #2															

MAR 26 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009, 00069, 00070, 00071, 00072, 00073, 00074, 00076, 00078, 00079, 00080, 00081, 00082.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.94 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME AS A.7				

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME AS A.8															

Total acres _____

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

1. amount 22.06 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME AS A.7				

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME AS A.8															

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1 TO 33-02057					

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT #2 TO 33-02057																

Total acres _____

9. Describe any other water rights used for the same purpose as described above Same as for 33-02057.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

1. amount 4.59 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 06/01/1908
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083,

22-02122

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 10/01/1906

5. Water is used for the following purpose:

   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

RECEIVED MAR 26 1996

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .48 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 03/15/1909
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083,

22-02122

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 0 1996

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

WATER RIGHTS 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 04/01/1912

5. Water is used for the following purpose:

   amount 6.4 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320

MAR 2 3 1988

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083,

22-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.09 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 08/06/1913
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .27 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 04/01/1913

5. Water is used for the following purpose:

   amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 6.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.16 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 10/15/1913

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18						40	40										80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .27 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8											40						40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02007 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 02/01/1909
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083,

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .49 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
amount .02 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02008 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 06/12/1909

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40			40		40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083,

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.09 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount .02 cfs for Stockwater purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02133 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River

4. Date or priority 06/22/1949

5. Water is used for the following purposes:

   amount 2960 acre-feet (cfs/ac-ft) for Soil Root Zone Storage (Irrigation Storage) purposes from 11/01 to 04/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE	ATTACHMENT	NO.	1	TO	PAGE									

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007, 33-02008, 33-02057, 33-02082

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 503 acre-feet (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Storage purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows proposed point of diversion highlighted in pink and the new acreages highlighted in blue.

MAR 2 6 1996

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

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

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

No change

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

We anticipate no effects.

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

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

Sagewillow Inc
Edmund N. Dumke Pres
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZeyl
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanoort Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JVanoort C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 26 1996

Form 222
1-87

Page 1 of 38

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4225

APPLICATION FOR TRANSFER OF WATER RIGHT

RECEIVED
SEP 20 1993
Department of Water Resources

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of existing water rights.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
33-02057E	02/01/1950	4.34 cfs	Irrigation	04/01	to	11/01
33-02083E	08/23/1957	.90 cfs	Irrigation	04/01	to	11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST		OF RIGHTS		to	
					to	

2. Total amount of water being transferred 20.92 cubic feet per second and 1125 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #2 TO PAGE 1					

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											30						30
		12						30											30
		13	20	38			40												98
7N	28E	8		30	30											30	20		110

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Wells with electric pumps pump directly into ditch which discharges into Little Lost River for exchange. Water is diverted from the river and from Big Spring Creek into ditches through concrete headgates. During highwater periods when there is water available from the river and Big Spring Creek, to the extent it is available, is used in place of pumping the wells and is, in that sense, supplemental.

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

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

We anticipate no significant effects because the water has been used essentially in the described manner for many years.

d. Remarks: The ditch from the wells discharges into the Little Lost River in the NWNW S.12, T.7N, R.27E and water is rediverted from 2 ditches (heading on either side of a diversion structure in the river in the SWNE S.2, T.7N, R.27E), and from a headgate on Big Spring Creek in the NWSW S.5, T.7N, R.28E on an exchange basis. Or, if water is available under the surface water rights, pumping from the wells is reduced or stopped to the extent any such surface water is available.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Water Right Nos.:

33-02057E, -02083E, -00069B, -00070B, -00071B, -00072B, -00073B, -00074B, -00076B, -00078B, -00079B, -00080B, -00081B, -00082B, -02007B, -02008B, & -02133B.

Pursuant to Final Order.

Witness my hand this 12th day of March, 19 96

Karl J. Dreher, Director

MAR 26 1996

ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

Parts "B"

RIGHT NO.	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	1.22 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	1.06 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	1.22 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	2.43 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.61 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	2.58 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	1.22 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.61 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	1.10 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	2.43 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	1125 Ac-Ft	Irrigation & Storage	04/01-11/01

1597m/srs

4. Point(s) of Diversion. ATTACHMENT #2 TO PAGE 1

Lot	¼	¼	¼	Sec.	Two[illegible]ge.		County	[illegible]ocal name for diversion
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4 \ 2 P/D's MEADW S/D
	NW	NE	NW	12	7N	27E	Butte	Well No. 5 /
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate Rediversion
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate injection
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate Rediversion
	*SEE REMARKS FOR LOCATION OF POINTS OF INJECTION AND REDIVERSION							

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02057 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water groundwater tributary to _____
4. Date or priority 02/01/1950
5. Water is used for the following purpose:
   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1 TO PAGE 3					

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT #2 TO PAGE 3																

MAR 2 6 1998

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009,

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 4.34 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

1. amount 19.66 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

MAR 2 6 1998

Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

MAR 2 6 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 5.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SEE ATTACHMENT #1 TO 33-02057				

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SEE ATTACHMENT #2 TO 33-02057															
														MAR 2 1998					

Total acres _____

9. Describe any other water rights used for the same purpose as described above Same as for 33-02057.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

1. amount 4.1 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

Two.	Age.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 06/01/1908

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 10/01/1906

5. Water is used for the following purpose:

   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

MAR 26 1996

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.06 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 03/15/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 04/01/1912

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320

MAR 2 6 1998

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.43 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 08/06/1913

5. Water is used for the following purpose:

   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

RECEIVED MAR 2 6 1996

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .61 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
																	MAY 2 1		

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1913
5. Water is used for the following purpose:
   amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.58 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 10/15/1913
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18							40	40									80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .61 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8											40						40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02007 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 02/01/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.10 cfs (cfs/ac-ft) for Irrigation & purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Stockwater purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02008 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 06/12/1909

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40			40		40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.43 cfs (cfs/ac-ft) for Irrigation & purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Stockwater purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02133 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River

4. Date or priority 06/22/1949

5. Water is used for the following purpose: Soil Root Zone Storage (Irrigation Storage)

   amount 2960 acre-feet (cfs/ac-ft) for _____ purposes from 11/01 to 04/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE	ATTACHMENT	NO.	1	TO	PAGE									

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007, 33-02008, 33-02057, 33-02083

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 503 acre-feet for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for Storage purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

8. Lands irrigated or place of use. ATTACHMENT NO. 1 TO PAGE 35

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

MAR 26 1990

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows points of diversion (Wells Nos. 3, 4 & 5) highlighted in pink and the proposed acreages to be irrigated highlighted in blue.

Map #3 shows point of injection into river and points of rediversion from river and Big Spring Creek highlighted in orange.

RECEIVED
MAR 2 6 1996

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

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

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

No change.

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

We anticipate no effects.

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

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

Sagewillow, Inc
Edmund W. Dunbe
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 19 93.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanpaat Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00

Receipted by JV C028624 Date 9-21-93

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 26 1996

Form 222
1-87

Page 1 of 38

Transfer No. 4226

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 2 0 1993
Department of Water Resources

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of the existing water rights.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02057F	02/01/1950	5.03 cfs	Irrigation	04/01 to 11/01
33-02083F	08/23/1957	1.03 cfs	Irrigation	04/01 to 11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST OF RIGHTS			to
				to

2. Total amount of water being transferred 24.65 cubic feet per second and 1332 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE	ATTACHMENT	#2		TO PAGE 1	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12				W									40	W	W	W 40	80
		13	10																10
		18		W 40	W 40	W	40	35	10	35						20			220
7N	28E	7										W	W	W	W				

MAR 2 0 1996

Total acres 310

ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

RIGHT NO. Part C	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	1.44 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	1.26 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	1.44 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	2.88 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.72 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	3.06 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	1.44 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.72 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	1.31 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	2.88 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	1332 Ac-Ft	Irrigation & Storage	04/01-11/01

1597m/srs

APR 26 1996

4. Point(s) of Diversion: ATTACHMENT #2 TO PAGE 1

Lot	¼	¼	¼	Sec.	Two[illegible]e.		County		cal name for diversion
	NE	NW	NE	12	7N	27E	Butte	2	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	3	Well No. 4 \ 2 PD same ¼ ¼
	NW	NE	NW	12	7N	27E	Butte		Well No. 5 /
	NW	SE	SE	12	7N	27E	Butte	5	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	7	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	8	Well No. 8
	SW	SW	NE	2	7N	27#	Butte	1	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	4	Lake Headgate
	NE	NW	SW	5	7N	28E	Butte	6	Big Spring Creek Headgate

PART 1

6. General Information

a. Description of diversion system 6 wells and pumps are connected by a ditch system which also feeds 16 ponds. When there is highwater available during spring runoff, and to the extent it is available, water is diverted under such rights directly into the same ditch system through three existing headgates.

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

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

There will be no significant effects; this is essentially thepractice that has been in effect for many years.

d. Remarks:

The groundwater rights are the primary rights. When, and to the extent, surface water is available under the late priority surface water rights, it is used to reduce or replace the water pumped from the wells. In that sense, the surface water rights are supplemental.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Pursuant to Final Order.

Water Right Nos.:

33-02057F, -02083F, -00069C, -00070C, -00071C, -00072C, -00073C, -00074C, -00076C, -00078C, -00079C, -00080C, -00081C, -00082C, -02007C, -02008C, & -02133C.

Witness my hand this 12th day of March, 19 96

Karl J. Dreher, Director

MAR 26 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02057 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water groundwater tributary to _____
4. Date or priority 02/01/1950
5. Water is used for the following purpose:
   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1 TO PAGE 3					

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT				#2 TO PAGE 3												

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009

00069 00070 00071 00072 00073 00074 00076 00078 00079 00080 00081 00082

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

MAR 0 6 1996

8. Lands irrigated or place of use:

ATTACHMENT NO. 2 TO PAGE 3

Two.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 5.03 cfs for Irrigation, storage for aesthetics, fish & wildlife, recreation and storage purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

1. amount 18.97 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

MAR 2 6 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 5.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8 FOR 33-02057																
												MAR 2 6 1996							

Total acres _____

9. Describe any other water rights used for the same purpose as described above Same as for 33-02057.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.03 cfs (cfs/ac-ft) for recreation & Irrigation, storage for aesthetics, fish & wildlife habitat, stockwater. purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

1. amount 3.97 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 06/01/1908
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.44 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 0 1998

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 10/01/1906
5. Water is used for the following purpose:
   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.26 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 03/15/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

MAR 26 1990

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083

age _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

amount 1.44 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

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

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

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1998

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank

in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

dated March 4, 1927 in Sixth District Court county of Butte

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

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

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

MAR 3 6 1998

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133

To your knowledge, has any portion of [redacted] water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

amount .36 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1999

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 04/01/1912

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083

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

No If yes, describe ___

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount: 2.88 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount: ___ (cfs/ac-ft) for ___ purposes from ___ to ___
   amount: ___ (cfs/ac-ft) for ___ purposes from ___ to ___

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres ___

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

RECEIVED MAR 21 1995

Total acres ___

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 08/06/1913
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

3. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount: .72 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount: _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount: _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1913
5. Water is used for the following purpose:
   amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 6.8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

MODIFIED
MAR 26 1996

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

Transfer No. _____

PART 2

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

No If yes, describe _____

DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

amount 3.06 (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

RECEIVED
MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank
   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
   dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 10/15/1913
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

3. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.44 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 26 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18						40	40										80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

amount .72 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .36 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount 8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

MAR 20 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .36 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8											40						40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

. **DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

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

amount .36 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

FEB 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02007 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 02/01/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

MAR 2 6 1996

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

amount: 1.31 cfs (cfs/ac-ft) for: Irrigation & purposes from: 04/01 to 11/01

amount: 02 cfs (cfs/ac-ft) for: Stockwater purposes from: _____ to _____

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

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02008 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 06/12/1909
5. Water is used for the following purpose:
   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40				40	40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083.

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.88 cfs for Irrigation & purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for Stockwater purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02133 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River

4. Date or priority 06/22/1949

5. Water is used for the following purpose:

   amount 2960 acre-feet (cfs/ac-ft) for ~~(Irrigation Storage)~~ Soil Root Zone Storage purposes from 11/01 to 04/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE	ATTACHMENT	NO.	1	TO	PAGE									

MAR 2 6 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007

PART 2

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 503 acre-feet (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Storage purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

RECEIVED 2 6 1996

8. Lands irrigated or place of use: ATTACHMENT NO. 1 TO PAGE 33

Two.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

MAR 2 0 1936

1480

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows points of diversion highlighted in pink and acreages to be irrigated highlighted in blue.

Map #3 shows ditch and pond system.

MAR 2 6 1996

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

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Storage for aesthetics, fish & wildlife habitat, recreation & stockwater	24.65 cfs		04/01 to 11/01
				to

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

No change.

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

We anticipate no effects on other uses. This proposed change has essentially been in effect for many years.

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

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

Sagewillow Inc
Edmund W. Dumke Pres
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVansant Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00

Receipted by JV C028624 Date 9-21-93

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 2 6 1996

4/11/1989 SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME SAGE WILLOW INC CLAIMANT IDENT. NO. A33-00069

DATE RECEIVED 10/6/89 CK # _____ AMOUNT $ _____

		YES	NO	Required Info?
	1. Is the name and address complete with zip code?	X		*
	2. Is a priority date entered?	X		*
	Is the priority date acceptable in view of mandatory filing dates? See Adjudication Memos #1 and #4 to determine if a Permit is required.	X		*
	3. (a) Is a source entered?	X		*
X	(b) Is a tributary to entered? (if required) N/A ___	X		
	4. Is the legal description of the p.d. sufficient?	X		*
	5. Is there a description of the diverting works?	X		
	6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.	X		*
	Is the period of use included?	X		
	Is a quantity claimed for each use?	X		*
	7. Is a total quantity claimed entered?	X		
X	8. If required is a consumptive use entered? N/A ___	X		
X	Is the consumptive use correct? N/A ___		X	
	9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. N/A ___	X		*
	10. Is (are) the place(s) of use and purpose(s) indicated?	X		*
	11. Is (are) the county(ies) entered?	X		
	12. Is the ownership of p.u. checked?	X		
X	13. Are other water rights listed or "none" indicated?	X		
	14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ___	X		
	15. Is the basis of the claim indicated?	X		
X	16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A X			
	17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	X		*
	18. Has the claim been signed, sealed, and dated by a notary?	X		*
	19. Was this claim filed on time, or was an extension granted?	X		*
	20. Is the fee enclosed correct? Exempt ___	X		*
X	21. If this claim is based on an existing water right, has the identification number been entered? N/A ___	X		
	22. Should this claim be data entered?	X		

E0109759

Claim checked by: TO Date: 10/6/89

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

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

Receipt Prepared by: _____ Date: _____

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

Sent to claimant by: _____ Date: _____

Comments: _____

MICROFILMED
NOV 18 1992

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Date: October 3, 1989

Kent W. Foster
P.O. Box 50130
Idaho Falls, ID 83405

RE: Sage Willow, Inc. Notices of Claim
to a Water Right Returned

Dear Mr. Foster:

The Idaho Department of Water Resources (IDWR) is returning your check #44170 ($2,891.00) and The Sage Willow, Inc. Notices of Claim to a Water Right because of insufficient information and/or fees. All items on the notices must be correctly completed and fees submitted before the IDWR can process the claims.

Please correct the items identified below and return the forms to the IDWR before the Butte County filing deadline, January 12, 1990. Failure to return the corrected notices before the deadline may result in an assessment of an additional late-fee.

- Insufficient Fee: The total fee for all 15 claims is $3478.00. Please refer to the individual filing fee for each claim in the upper right corner of the notice.

- Item #12 must be completed on Notice A33-10009.

- The priority date (Item #2) for Notice A33-02057 should be Feb. 1, 1950, instead of Feb. 3, 1950 (see enclosed report for License 33-02057).

- The IDWR number for the basis of claim (Item #15) in Notice A33-02090 should be 33-2090 instead of 33-2890 (see enclosed report for License 33-02090).

- The IDWR number for the basis of claim (Item #15) in Notice A33-00081 should be 33-0081 instead of 33-0082 (see enclosed report for Decreed Right 33-0081).

- The IDWR number for the basis of claim (Item #15) in Notice A33-00082 should be 33-0082 instead of 33-0083 (see enclosed report for Decreed Right 33-0082).

MICROFILMED
NOV 18 1992

- The title was omitted in the "For Organizations" signature block (Item #16) on all but one of the notices. Please type the claimants title in the appropriate spaces on each notice.

If you have any questions, please call Tony Olenichak, Water Right Agent, at (208)-525-7161.

Sincerely,

Tony Olenichak
for Ernest Carlsen

Ernest Carlsen
Adjudication Supervisor

Enclosure

MICROFILMED
NOV 18 1992

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

October 2, 1989

RECEIVED
OCT 0 6 1989
Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

Dear Gentlemen:

We are enclosing for filing claims on behalf of Sage Willow Inc., which owns property in Butte County, Idaho. The filing fees have been calculated as follows:

$25.00 for the single family dwelling Domestic Claim

$50.00 for the two dwelling Domestic Claim

$50.00 Flat Fee for each of the 13 irrigation claims and $1.00 per acre for each of the acres to which we claim a water right is appurtenant.

We have also enclosed our check in the amount of $2,891.00 for the total amount of the filing fees. Thank you for your assistance with this matter.

Yours very truly,

Kent W. Foster

Kent W. Foster

#8149.00/srr

Enclosure

MICROFILMED
NOV 18 1992

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

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ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

October 5, 1989

Idaho Department of Water Resources
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

Gentlemen:

We are returning the claims for Sage Willow, Inc. together with our check in the amount of $3,478.00. Thank you for your assistance with this matter.

Yours very truly,

Kent W. Foster

Kent W. Foster

#8149.00/srr

Enclosures

MICROFILMED
NOV 18 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

12:48:03
04/06/94

GENERAL INFORMATION

1
CLAIM NUMBER: A03-00069

LAST: MERCHANTS TRUST & SAVINGS BANK FIRST:
ADDRESS:
CITY: _ STATE: ID ZIP: 99999
PHONE NUMBER: 208-000-0000

OWNER CODE: O

LAST: SAGE WILLOW, INC. FIRST:
ADDRESS: 545 SHOUP AVE.
CITY: IDAHO FALLS STATE: ID ZIP: 83402
PHONE NUMBER: 208-522-7784

OWNER CODE: C

LAST: FOSTER FIRST: KENT W.
ADDRESS: P.O. BOX 50130
CITY: IDAHO FALLS STATE: ID ZIP: 83405
PHONE NUMBER: 208-000-0000

OWNER CODE: A

	DATABASE	FIELD EXAMINED
FIELD EXAM REQUIRED?		
VERIFICATION REQUIRED DUE TO REMARKS?	N	

NO REMARKS IN CLAIM

FIELD EXAMINATION INFORMATION

CLAIM NUMBER: A03-00060

CONTACT PERSON: _____ PHONE NUMBER: (___) ___-____

DATE OF FIELD EXAM: __/__/__ APPOINTMENT MADE: Y(__) N(__) TIME: ___:___ A(__) P(__)

ACCOMPANIED BY: _____ PHONE NUMBER: (___) ___-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

PAGE: 3
PRIORITY DATE REVIEW PAGE

CLAIM NUMBER: 3 A33-00069

A. AI CLAIM: # A33-00069 PRIORITY DATE: 06-01-1908 STAGE: D

B. WR RECORD: # 33-00069 PRIORITY DATE: 06-01-1908 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
	N	

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y(__) N(__)
IF YES EXPLAIN.

NOTES: Priority claimed matches Decree

RECOMMENDED PRIORITY DATE: 06-01-1908 As claimed

REVIEWED BY [signature] DATE 5 Feb 97

EXCERPT FROM:
BLAINE CO. INVEST. CO. vs R.G. MAYS, et al
DECREED 4 MARCH 1927, XXI pg. 10 (d)

(d) Little Lost River: 160 inches, June 1, 1908, 33 00069

Point of diversion:

to be used upon and appurtenant to:

(Home Ranch - Conger Entry) The East half of the Northwest quarter, the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter of Section 7, Township 7, North, Range 28 East of the Boise Meridian.

POINT OF DIVERSION REVIEW SHEET

CLAIM NUMBER: A33-00069

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A33-00069	07N	27E	2		SW	NE		BUTTE

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	S PREFIX
A33-00073	NONE
A33-00074	
A33-00076	
A33-00078	
A33-00079	
A33-02007	
A33-02133	

WR RECORDS IN SAME 40 ACRE TRACT

33-04013
T33-00069A
T33-00069B
T33-00069C
T33-00070A
T33-00070B
T33-00070C
T33-00071A
T33-00071B
T33-00071C
T33-00072A
T33-00072B
T33-00072C
T33-00073A
T33-00073B
T33-00073C
T33-00074A
T33-00074B
T33-00074C
T33-00075A
T33-00076B
T33-00076C
T33-00078A
T33-00078B
T33-00078C
T33-00079A
T33-00079B
T33-00079C
T33-00080A
T33-00080B
T33-00080C
T33-00081A
T33-00081B
T33-00081C
T33-00082A
T33-00082B
T33-00082C
T33-02007A
T33-02007B
T33-02007Z
T33-02008A
T33-02008B
T33-02008C
T33-02057D
T33-02057Z
T33-02057E

T33-02060D
T33-02060E
T33-02060F
T33-02133A
T33-02133B
T33-02133C

SOURCE: LITTLE LOST RIVER TRIB: SINKS

B. WR POINT OF DIVERSION AND SOURCE:

3000069 THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

SOURCE: LITTLE LOST RIVER TRIB: SINKS

C. FIELD EXAM REQUIRED?

		DATABASE	FIELD EXAMINER
DUE TO POD DISCREPANCY?	(Y/N)	Y	------
DUE TO SOURCE DISCREPANCY?	(Y/N)	N	------

NOTES:

P.O.D. NOT SPECIFIED BY DECREE. (SEE DECREE EXCERPT ON Pg.3)
SOURCE DECREED AS LITTLE LOST RIVER.
-18 Nov 1999- TRANSFERS #4224, 4225, & 4226 essentially added points of diversion from Big Spring Creek & LITTLE LOST RIVER. EMC.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY	DIVERSION NAME
7N	27E	2	SW	SW	NE	---	------	Knollin Headgate.
----	----	12	NE	SW	NW	---	------	Lake Headgate.
7N	28E	5	NE	NW	SW	---	------	Big Spring Creek Headgate.
----	----	----	---	---	---	---	------	----------
----	----	----	---	---	---	---	------	----------
----	----	----	---	---	---	---	------	----------

SOURCE: LITTLE LOST RIVER TRIB: SINKS

REVIEWED BY: Ernest Carlson DATE: 18 Nov 1999.

SYSTEM DESCRIPTION:

PLACE OF USE REVIEW SHEET

CLAIM NUMBER: A13 00369

A. ROOT WATER RIGHT NUMBERS: A33-00060
A33-00060B

B. POU LISTING

Place of Use Overlap Attachment

				NE				NW				SW				SE				
Water Right	Twn.	Rge.	Sec.	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
	7N	2E	1											30						30
			12						30							40			40	110
			13	30	38			40												108
			18		40	40		40	35	10	35						20			220
	7N	2BE	7	40			40													80
			8		30	30			40								30	20		150
																Total Acres =				698

PRESUMPTION FLAG:

NOTES:

18NOV 1999- Transfers 4224, 4225 & 4226 essentially combined all the lands irrigated with surface water into a permissible place of use. The P.O.U. listed above is the combination of P.O.Us from these three transfers.

RECOMMENDATIONS:

TOTAL ACRES: 698

REVIEWED BY: Ernest Carlson DATE: 18 Nov 1999.

E11 - RIGHTS Listed ABOVE 1412 ACRES.

K06 160 ACRES.

PURPOSES REVIEW SHEET

CLAIM NUMBER: A33-00069

A. AJ CLAIMED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A33-00069	IRRIGATION	FROM 04-01 TO 11-01	3.200 CFS
		TOTAL DIVERSION RATE/VOLUME CLAIMED	3.200 CFS

B. WR RECORDED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
33-00069	IRRIGATION	FROM TO	3.200 CFS
		TOTAL DIVERSION RATE/VOLUME CLAIMED	3.200 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	N	------
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	N	------
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	------

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y(✓) N(___)

RECOMMEND TO WR STANDARDS OR OTHER? Y(✓) N(___) Explain in notes, below.

NOTES:

RECOMMEND PERIOD OF USE AS CLAIMED, AS DECREED.

DIVERSION AMOUNT REVIEW SHEET

9

CLAIM NUMBER: A33-00069

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y(___) N(___)

AJ TOTAL CLAIMED DIVERSION RATE: 3.200 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 3.200 CFS As Decreed

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in notes. **

FLOW MEASUREMENT REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)	N	------

B. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y(Y) N(__) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: 33-2057/2083.

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A33-00069	LITTLE LOST RIVER	SAGE WILLOW, INC.	3.200	0.020		
A33-02057	GROUNDWATER	SAGE WILLOW, INC.	24.000	0.016		
A33-02083	GROUNDWATER	SAGE WILLOW, INC.	5.000	0.003		
A33-02133	LITTLE LOST RIVER BIG SPRING CREEK	SAGEWILLOW INC			2960.00	2.00

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A33-10459	STOCKWATER	SAGEWILLOW INC	FROM 01-01 TO 12-31	.040 CFS	

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(___) N(___)

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(__) N(__) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 560.0 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

NOTES: (Include limitations on CONSUMPTIVE USE for combined rights.)

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM	REC. PERIOD TO	REC. DIV RATE CFS DATABASE	REC. DIV RATE CFS EXAMINER	REC. DIV VOL. AC/A DATABASE	REC. DIV VOL. AC/A EXAMINER	REC. CONS. USE DATABASE	REC. CONS. USE EXAMINER
IRRIGATION	04-01	11-01	3.200				560.0	
TOTAL FOR THIS RIGHT			3.200				560.0	

REVIEWED BY: DATE:

E27 28.24 c/s 4,942 AF. - LIST ALL RIGHTS.

A33-00069	A33-00070	A33-00071	A33-00072	A33-00073	A33-00074	A33-00076	A33-00078	A33-00079	A33-00080
A33-00081	A33-00082	A33-02057A	A33-02057B	A33-02057C	A33-02057D	A33-02057E	A33-02057F	A33-02083A	A33-02083B
A33-02083C	A33-02083D	A33-02083E	A33-02083F	A33-02086A	A33-02086B	A33-02133	A33-07018.		

E04- 13.96 c/s. 33-00069, 33-00070, 33-00071, 53-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082. 33-02057D, 33-02057E, 33-02057F 33-02083D, 33-02083E, 33-02083F

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP	( )	( )
FORFEIT/ABANDON	( )	( )
ADDITIONAL DIV. AMOUNT	( )	( )

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 33-00069

TOTAL DIVERSION RATE OF WR SPLITS — DATABASE: 3.200 — EXAMINER: _____ — CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A33-00069	3.200	-		33-00069	3.200
-	A33-000696	3.200	-		-	
	TOTAL CFS	6.400				3.200

DIVERSION RATE REVIEW

	DATABASE	FIELD EXAMINER
DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)	N	------
IF NO, is the written review sheet attached? (Y/N)		------

NOTES:

RIGHT AS CLAIMED IS NOT SPLIT- CLAIMED IN-FULL!

AUTHENTICATION:

SIGNATURE: A B Rubery — DATE: 5 FEB 97

NAME OF FIELD EXAMINER: Allen Rubery — TITLE: Sr. Agt.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

13:48:03
04/06/94

QUICKLOOK INFORMATION

13
CLAIM NUMBER: A33-00069

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE				N		EMC NOV 16,'99	EMC NOV 16 '99	
POINT OF DIV	Y			Y				
SOURCE				Y				
PLACE OF USE	Y			Y				
DIV. AMOUNT CFS/VOLUME				N				
CONSUMPTIVE USE	-			Y				
PURPOSES				N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N				
REMARKS				Y				

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PO	= 1
ASCS MAP	= 2
WATERMASTER RECORDS	= 3
NAPP PHOTOS	= 4
FIELD EXAM	= 5
OTHER (SEE REMARKS)	= 6

E27
E11
K06

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

PROFILE REPORT

CLAIM NUMBER: A33-00069

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	SAGE WILLOW, INC. 545 SHOUP AVE. IDAHO FALLS ID 83402 (208) 522-7784	06/01/1908	IRRIGATION	04-01	11-01	3.20 CFS	
				TOTAL DIVERSION:		3.20 CFS	
				CONSUMPTIVE USE:			560.00 AFA

Water Source: LITTLE LOST RIVER ✓ Tributary to: SINKS Stage: DECREED

Point(s) of Diversion: T07N R27E S02 SWNE no spec. by Decree BUTTE County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
07N	28E	7										40						40	80.0
												40							80.0
			NESW		NWSW		SWSW		SESW		NWSE		NESE		SWSE		SESE		
			Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
07N	28E	7		40															80.0
				40															80.0
																		TOTAL ACRES	160.0

P.O.U. As DECREED

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 33-2057/2083.

Dates: Exam Made Date: Verified Date: 06/24/1985

Misc: Water District Number: 33 Field Inspection Flag:
Presumption Flag:

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

In Re SRBA	)	**Water Rights: See Exhibit A**
	)	
Case No. 39576	)	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**

IDWR has completed the following Administrative proceeding:

[] Address change

[] Substitution of Party

[X] I.C. § 42-222 transfer **4221, 4222, 4223, 4224, 4225, 4226, 4227**

- [X] **Withdrawn per letter from attorney Kent Foster attached**
- [] point of diversion [] place of use
- [] period of use [] nature of use
- [] split of water right [] change in ownership

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

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

DATED: 25 June 2003

Ernest M Carlson
Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on June 26, 2003, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

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

2. One copy to:
   Claimant/Seller for Substitution of Party or attorney of record:
   SAGEWILLOW INC
   C/O HOLDEN KIDWELL HAHN & CRAPO
   PO BOX 50130
   IDAHO FALLS ID 83405

3. One copy to:
   Claimant/Purchaser for Substitution of Party, or attorney of record:
   N/A

4. One copy to:
   Each party in the subcase, or attorney of record
   BLAINE COUNTY CANAL CO
   MAYS LAND & LIVESTOCK INC
   C/O MICHAEL C CREAMER
   PO BOX 2720
   BOISE ID 83701-2720

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

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

Jennifer Crabtree
Signature of person or attorney mailing the form

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DEANNE CASPERSON**
*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

US BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

June 20, 2003

VIA FACSIMILE: (208) 327-7866

Idaho Department of Water Resources
1301 North Orchard Street
PO Box 83720
Boise, ID 83720-0098

Re: Application for Transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226, and 4227 In the name of Sagewillow, Inc.

Dear Ladies and Gentlemen:

We are writing this letter at the request of our client, Sagewillow, Inc. We hereby withdraw the above-numbered applications for transfer. The decision of the Idaho Supreme Court appears to be final in the appeal of this matter and the final order of the director in these transfer proceedings has now been vacated. Sagewillow, Inc., is considering the filing of new applications for transfer.

Yours very truly,

Kent W. Foster

c: Norman M. Semanko
Thomas C. Praggastis
Dr. Charles Brockway
Michael C. Creamer
Harold Jones (via fax)
Philip J. Rassier

G:\WPDATA\KWF\1149 SAGE WILLOW\Correspondence\L. Glen Saxton IDWR ltr 062003 wpd:bel

Exhibit A

Subcase Nos:

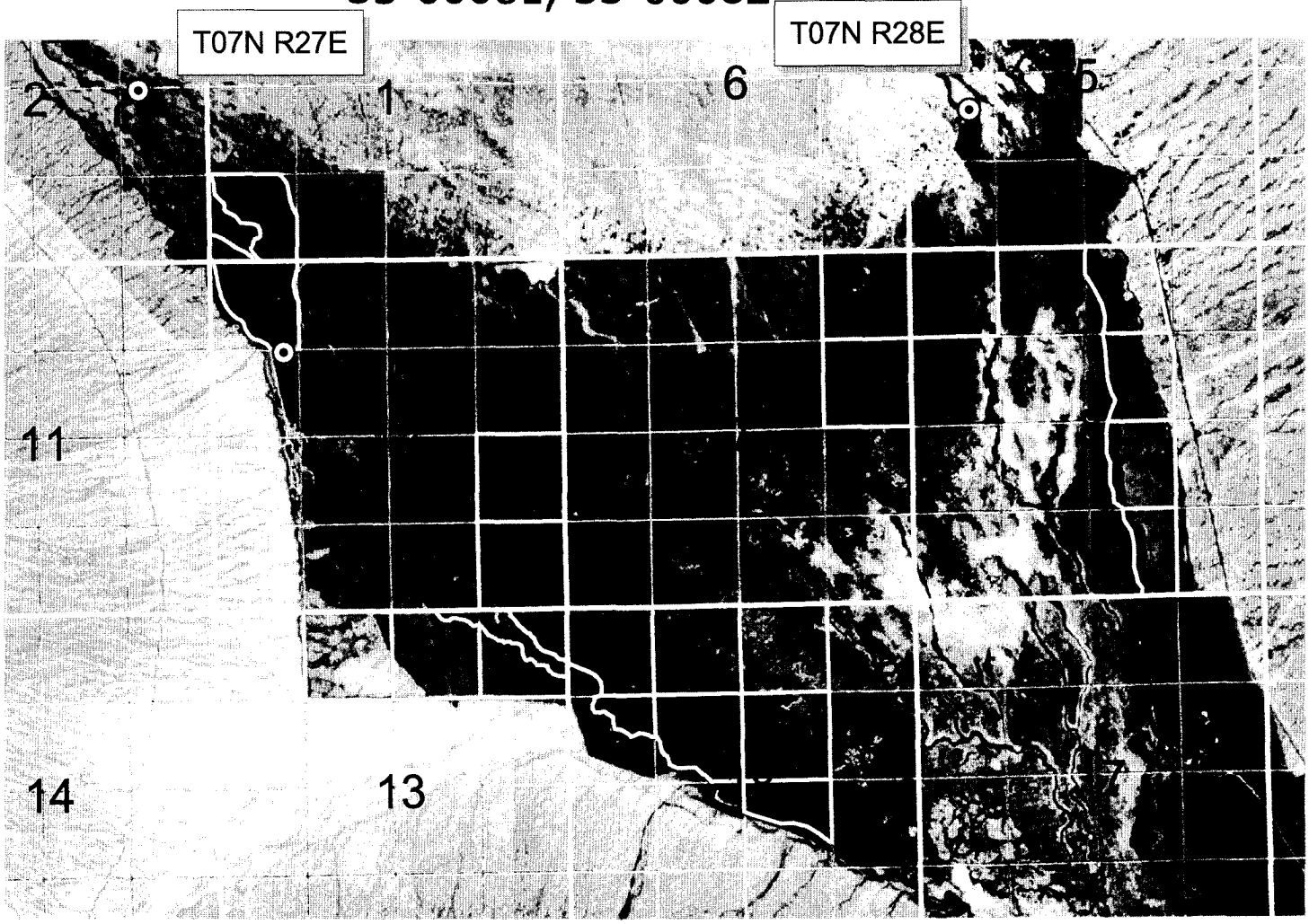
33-00069
33-00070
33-00071
33-00072
33-00073
33-00074
33-00076
33-00078
33-00079
33-00080
33-00081
33-00082
33-02007
33-02008
33-02057A
33-02057B
33-02057C
33-02057D
33-02057E
33-02057F
33-02083A
33-02083B
33-02083C
33-02083D
33-02083E
33-02083F
33-02086A
33-02086B
33-02090
33-02091
33-02133
33-07018
33-11003

STATE OF IDAHO

Department of Water Resources

Eastern Region

Water Right(s): 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082



0 1320 2640 3960 5280 6600 7920 9240 10560 Feet

LEGEND

Point of Diversion

Place of Use

Section Line

Quarter-section line

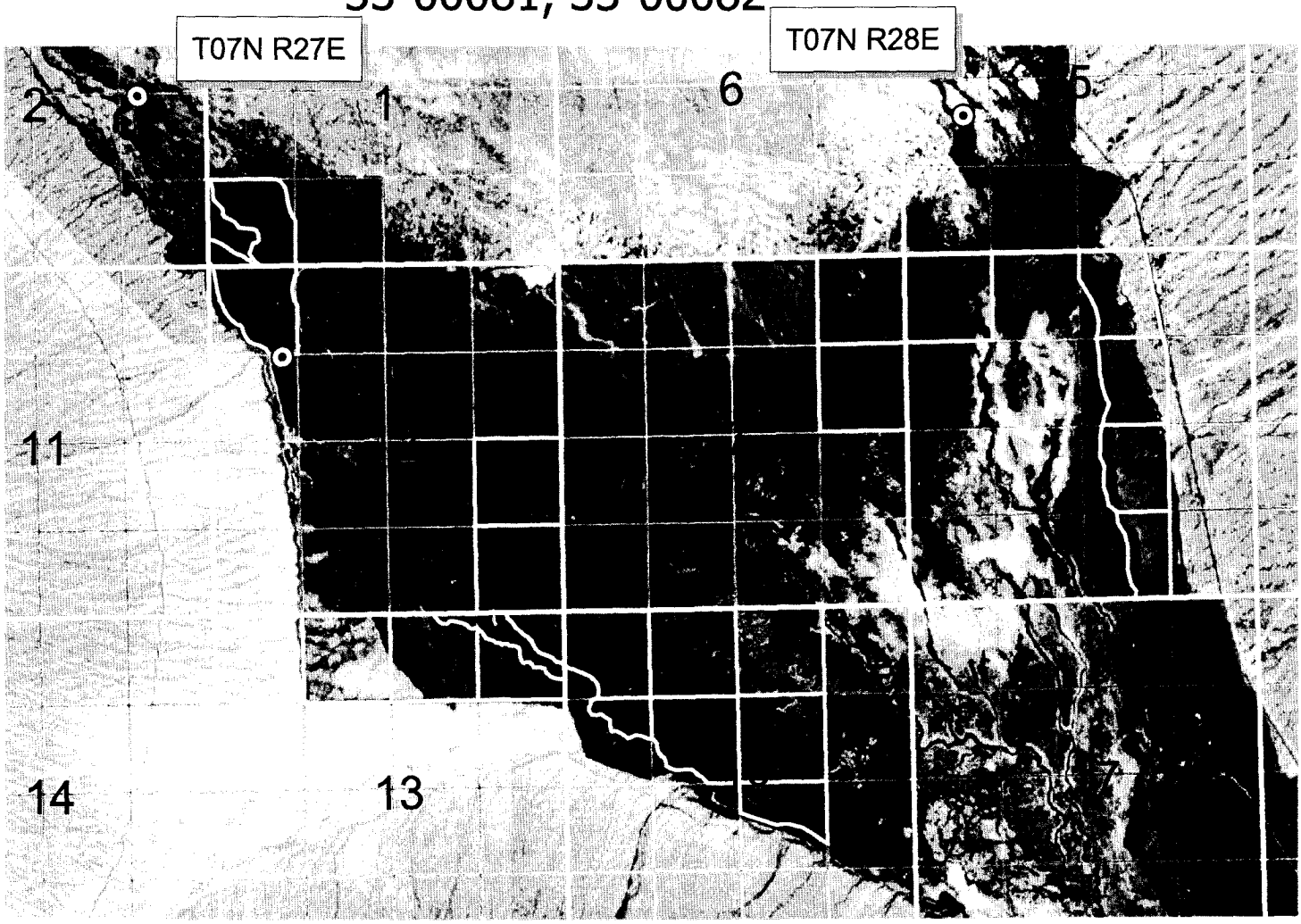
Acres Irrigated = 698

N

GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 1999

STATE OF IDAHO
Department of Water Resources
Eastern Region

Water Right(s): 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082



0 1320 2640 3960 5280 6600 7920 9240 10560 Feet

LEGEND

Point of Diversion

Place of Use

Section Line

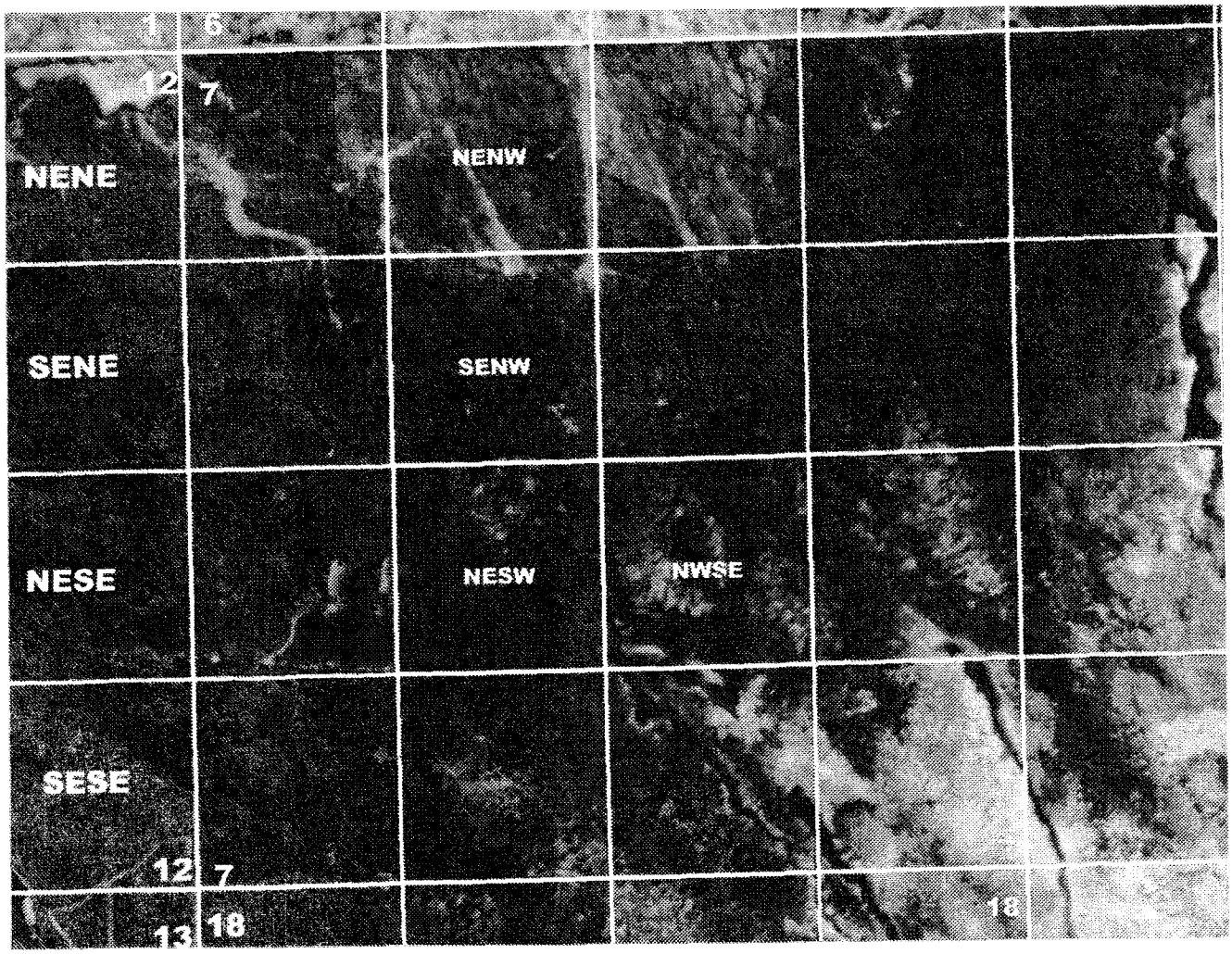
Quarter-section line

Acres Irrigated = 698

N

GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 1999

33-00069

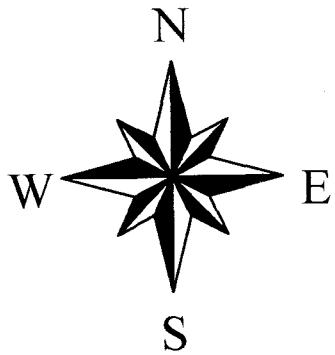


Place of Use

⊙ POD

Section Line

Quarter Section Line



OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	SAGEWILLOW INC C/O KENT FOSTER PO BOX 50130 IDAHO FALLS ID 83405 (208) 523-0620	06/01/1908	IRRIGATION	04-01	11-01	3.200 CFS	
				TOTAL DIVERSION:		3.200 CFS	

Water Source: LITTLE LOST RIVER
BIG SPRING CREEK

Tributary to: SINKS
LITTLE LOST RIVER

Stage: DECREED

Point(s) of Diversion:

T07N R27E S02	SWSWNE - 87		BUTTE County
S12	NESWNW - 88		BUTTE County
R28E S05	NENWSW - 89		BUTTE County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
07N	27E	1											30						30.0
07N	27E	12						30							40			40	110.0
07N	27E	13	30	38			40												108.0
07N	27E	18		40	40		40	35	10	35						20			220.0
07N	28E	7	40			40													80.0
07N	28E	8		30	30			40								30	20		150.0
																TOTAL ACRES			698.0

69
70
71
72
73.

POU County: BUTTE

Conditions of Approval:

C18 - THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
- NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
- ADMINISTRATION OF THE WATER RIGHTS.

Remarks: QNT USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 28.24 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4,942 AF. COMBINED RIGHT NOS.: 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-000079, 33-00080, 33-00081, 33-00082, 33-02057A, 33-02057B, 33-02057C, 33-02057D, 33-02057E, 33-02057F, 33-02083A, 33-02083B, 33-02083C, 33-02083D, 33-02083E, 33-02083F, 33-02086A, 33-02086B, 33-02133 AND 33-07018.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 13.96 CFS. COMBINED RIGHT NOS.: 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02057D, 33-02057E, 33-02057F, 33-02083D, 33-02083E AND 33-02083F.

POU1 USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO

Remarks: THE IRRIGATION OF A COMBINED TOTAL OF 1412 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02057A, 33-02057B, 33-02057C, 33-02057D, 33-02057E, 33-02057F, 33-02083A, 33-02083B, 33-02083C, 33-02083D, 33-02083E, 33-02083F, 33-02086A, 33-02086B, 33-02133 AND 33-07018.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 160 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

Misc: Water District Number: 33 Field Inspection Flag:
Presumption Flag:

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A33-00069
Date Received: 10/06/1989
Receipt No: E010978
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SAGE WILLOW, INC. 208-522-7784
   Address: 545 SHOUP AVE.
   IDAHO FALLS, ID 83402

2. Date of Priority: JUN 01, 1908

3. Source: LITTLE LOST RIVER Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07N	27E	2	SW NE		BUTTE

5. Description of diverting works:
   HEADGATE/DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.200		

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

8. Total consumptive use is 560.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   NONE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	28E	7	NE NW		IRR	40.0
			SE NW		IRR	40.0
			NE SW		IRR	40.0

Original Sent to court. 5-4-00

MICROFILMED
NOV 18 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07N	28E	7	NW	SE		IRR	40.0

Section Acres 160.0

Total Acres 160.0

11. Place of use in counties: BUTTE

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

13. Other Water Rights Used:
33-2057/2083.

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

BLAINE COUNTY INVESTMENT CO. (Decree Plaintiff) vs ROBERT G. MAYS, ET. AL. (Decree Defendant)

MICROFILMED
NOV 18 1992

Form No. 42-1409(2)a 1/88

130 00

(80AC OF 160AC PD ON A33-0205)

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

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

CIVIL CASE NUMBER: 39576
Ident. Number ~~33-0069~~ A33-00069
Date Received 10/6/89
Receipt Number E010978

RECEIVED
OCT 0 3 1989
Department of Water Resources
Eastern District Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Original sent to court. 5-4-00

1. Name of Claimant(s) Sage Willow, Inc. Phone (208) 522-7784

Mailing Address 545 Shoup Avenue, Idaho Falls, Idaho Zip 8[illegible]

2. Date of Priority (Only (1) per claim) June 1, 1908

3. Source of water supply (a) Little Lost River

which is tributary to (b) Sinks

A330069

4.a. Location of existing point of diversion is: Township 7N. Range 27E. Section 2 , ____ 1/4 of SW 1/4 of NE , Govt. Lot, ____ B.M., County of Butte

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is: Township _____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4, Govt. Lot ____ B.M., County of _____

ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4 Govt. Lot ____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Diversion and headgate structure with ditch leading to place of use.

MICROFILMED
NOV 1 8 1992

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/01 to 11/01 amount 3.2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 3.2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 560 acre feet per annum.

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

_____

10. Description of place of use:
    a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
    b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE1/4				NW1/4				SW1/4				SE1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	28E	7					40			40	40					40			160

Total number of acres irrigated 160

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

12. Do you own the property listed above as place of use? Yes X No ___
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
33-2057 and 33-2083. or None ( )

14. Remarks:

_____

_____

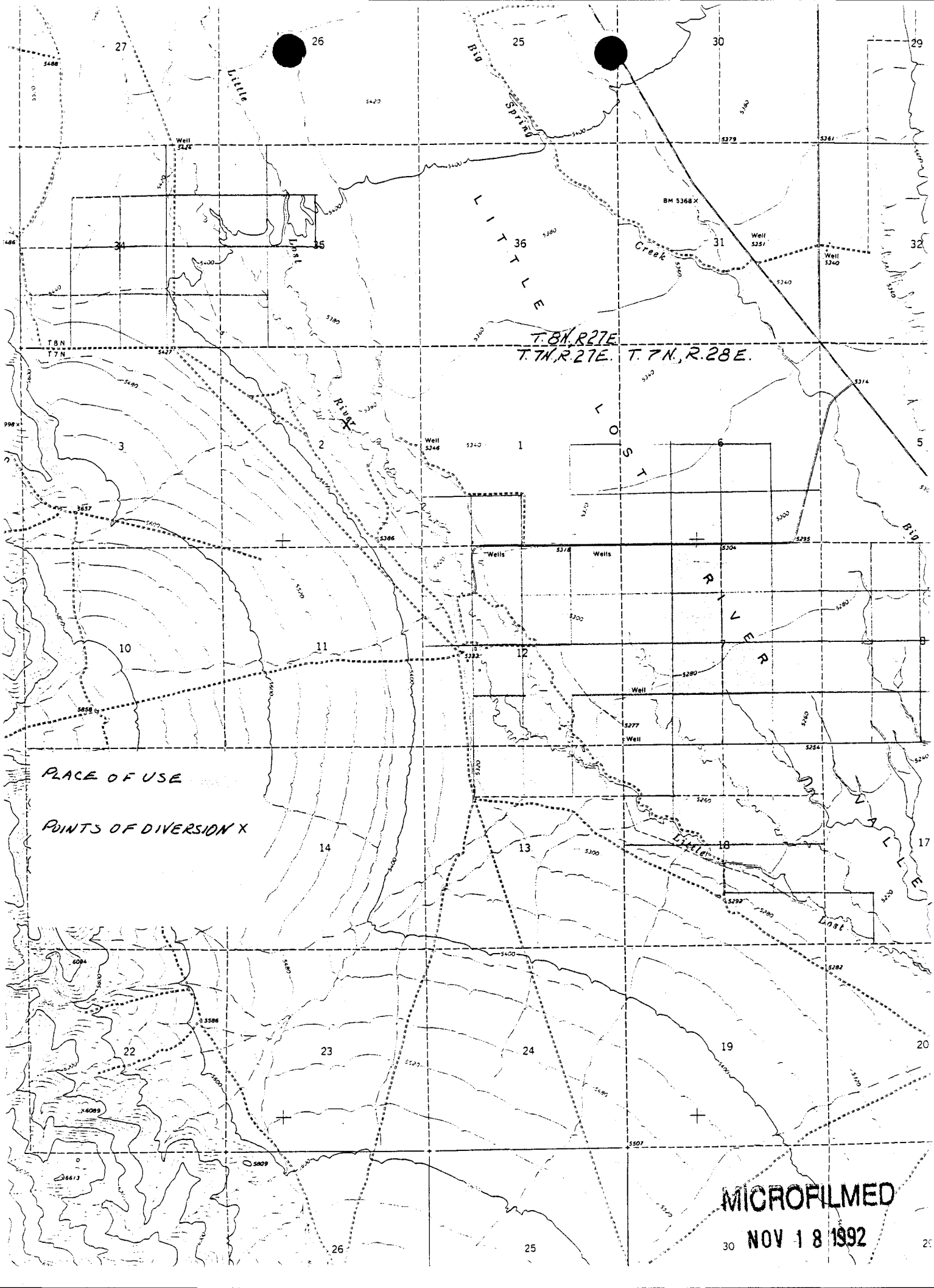
_____

_____

_____

Last Name Sage Willow, Inc. Ident No. A33-00069

MICROFILMED
NOV 18 1992



MICROFILMED
NOV 18 1992

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

If applicable provide IDWR Water Right Number 33-0069
Court 6th District Case Number ___ Decree Date 03/04/1927
Plaintiff vs Defendant Blaine County Invest. Co. v. Robert G. Mayes, et al.

16. Signature(s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ___ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 1

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

Signature of Claimant(s) ___ Date ___

___ Date ___

For Organizations: I do solemnly swear or affirm that I am President (Title) of Sage Willow, Inc. (Organization), that I have signed the foregoing document in the space below as President (Title) of Sage Willow, Inc. (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Edmund W. Dumke President

Title and Organization President, Sage Willow, Inc. Date 9/27/89

State of Idaho/or Idaho)
) SS.
County of Blaine)

Subscribed and sworn (or affirmed) before me this 27 day of September, 1989.

Notary Public Suzanne M Campbell
Residing at Blaine Co
My Commission Expires 1994

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

Signature Kent W Foster
Address P.O. Box 50130, Idaho Falls, Idaho 83405
Date 10/2/89

Last Name Sage Willow, Inc. Ident. Number A33-00069

MICROFILMED
NOV 1 8 1997

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226, AND 4227 IN THE NAME OF SAGEWILLOW, INC.	**AMENDED FINAL ORDER**

Pursuant to Idaho Department of Water Resources' procedural rule 760, the Director withdraws his Final Order dated June 28, 2004, and substitutes this new Amended Final Order. IDAPA 37.01.01.760

This matter is before the Director of the Idaho Department of Water Resources ("Director" or "Department") on remand from the Idaho Supreme Court in the case of *Sagewillow, Inc. v. Idaho Dept. of Water Resources*, 138 Idaho 831, 70 P.3d 669 (2003).

On April 29, 2004, the parties filed *Applicant's and Protestants' Stipulation to Findings of Fact and Conclusions of Law on Remand to IDWR* ("Stipulation"). On that same date, Sagewillow, Inc. notified the Department and the parties that it was revoking its withdrawal of the above referenced transfers and intended to pursue the transfers as agreed upon by the parties in the Stipulation.

The parties also stipulated to supplementation of the record by Sagewillow, Inc. ("Sagewillow") and waived their right to further hearing in this matter. The Director having considered the Stipulation, other documents and pleadings filed in this matter, the record of the prior proceedings, and the decision of the Idaho Supreme Court, makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Procedural Background

1. On September 20, 1993, Sagewillow filed multiple transfer applications with the Department seeking to change the place of use and points of diversion for various ground and surface water rights originally authorized for irrigation purposes on a combined total of 2,383 acres. The water rights involved in the proposed transfers were: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33- 81, 33-82, 33-2007, 33-2008, 33-2090, 33-2091, 33-2057, 33-2083, 33-2086, 33-2133, and 33-7018.

2. James Mays, Mays Land & Livestock, and Blaine County Canal Company filed protests to the transfer applications.

3. A hearing on the transfer applications was held in Idaho Falls, Idaho on January 31, and February 1, 1995.

4. The Director issued a final order on March 12, 1996 ("1996 Order"). On review of the 1996 Order, the Idaho Supreme Court remanded the transfer applications to the Department on April 10, 2003, for further proceedings.

5. By letter dated June 20, 2003, Sagewillow requested that the transfer applications be deemed withdrawn.

6. On April 29, 2004, pursuant to the Stipulation, Sagewillow submitted notice that it wished to revoke the withdrawal of the transfer applications. The notice was accompanied with the Stipulation.

Water Rights Nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82

7. Water rights nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82 are surface water rights with relatively junior priority dates and are diverted for beneficial use from the Little Lost River and Big Spring Creek when available. These water rights are commonly referred to as the "high water" rights. These water rights historically have been used primarily during times of high water, and have been used in combination with water rights nos. 33-2057, 33-2083 and 33-2133.

Water Rights Nos. 33-2007 and 33-2008

8. License no. 33-2007 was issued in the name of Adolph M. Myrup for 3.2 cfs with a February 1, 1909, priority date from the Little Lost River. Water right no. 33-71 was decreed from Spring Creek with a March 15, 1909, priority date to Merchants Trust & Savings Bank to be used on property titled in the decree as "A.M. Myrup Desert Entry." *Blaine County Investment Co. v. Mays,* ¶ XXI (6th Jud. Dist. Idaho, March 4, 1927). The land description in the decree for right no. 33-71 is the same as for licensed right no. 33-2007. License no. 33-2008 was developed in the name of Lillian Myrup for 6.4 cfs from Spring Creek with a June 12, 1909, priority date. Water right no. 33-73 was decreed from Spring Creek with an April 1, 1912, priority date to Merchants Trust & Savings Bank for use on property titled in the decree as "Lillian Myrup Entry." Id. The land description in the decree for right no. 33-73 is the same as for licensed right no. 33-2008. The Director finds that licensed rights nos. 33-2007 and 33-2008 are the same water rights as decreed rights nos. 33-71 and 33-73, respectively.

Water Rights Nos. 33-2090 and 33-2091

9. Uncontradicted, clear, and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under water right no. 33-2090 on the lands to which it was appurtenant (known as the "North of the Road Place") for at least twenty consecutive years.

10. No evidence was presented to suggest that the non-use of water right no. 33-2090 was due to circumstances beyond the right holder's control or that any other defense to forfeiture could be asserted.

11. Uncontradicted, clear, and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under water right no. 33-2091 on the lands to which it was appurtenant (known as the "Homestead Place") for at least twenty consecutive years.

12. No evidence was presented to suggest that the non-use of water right no. 33-2091 was due to circumstances beyond the right holder's control or that any other defense to forfeiture could be asserted, except as set forth below with respect to Sagewillow's partial resumption of use of this water right on 73 acres, pursuant to the Department's approval of transfer no. 3785.

13. The parties stipulate and the Director finds, based on the continued use of water under right no. 33-2133 discussed below, that the resumption of use of water on these additional 73 acres does not cause injury to other water rights.

Water Rights Nos. 33-2057 and 33-2083

14. Water rights nos. 33-2057 and 33-2083 were originally licensed for irrigation of 1,483 acres on properties commonly referred to as the "Bird Ranch" and the "Knollin Ranch." Water right no. 33-2057 has a diversion rate of 24 cfs, and water right no. 33-2083 has a diversion rate of 5 cfs, both from ground water. The record contains conflicting evidence concerning the extent of historical irrigation under these rights and the extent to which water was available for beneficial use on the entire 1,483 acres in the years prior to Sagewillow's purchase of the Knollin Ranch.

15. The record contains substantial evidence that water was applied to a total of 1,182 acres on the Bird Ranch and the Knollin Ranch prior to Sagewillow's purchase of the property. This conclusion is supported by the Director's analysis of Vance Hawley's testimony at the hearing, the Department's shape files, 1987 NAPP photography, 1992 aerial photographs, 1975 orthophotoquad maps, and the topography of the land. The Director concludes that 1,182 acres were irrigated under water rights nos. 33-2057 and 33-2083 prior to Sagewillow's purchase of the property in 1989.

16. The record also contains substantial evidence that water was applied under water rights nos. 33-2057 and 33-2083 on an additional 301 acres after Sagewillow purchased the properties. Thus, Sagewillow resumed irrigation of 301 acres under the two water rights after it purchased the property in 1989. These 301 acres combined with the 1,182 acres that were irrigated prior to the purchase of the property by Sagewillow totals the 1,483 acres authorized to be irrigated under the two licenses.

17. The parties stipulate and the Director finds, based on the continued use of water under right no. 33-2133 discussed below, that the resumption of use of water on these 301 acres does not cause injury to other water rights.

Water Right No. 33-2133

18. Water right no. 33-2133 authorizes the diversion of water from Big Spring Creek and from the Little Lost River during the non-irrigation season for "root zone storage." This use is more properly characterized as recharge during the non-irrigation season and sub-irrigation for pasture grass on the Knollin Ranch during the irrigation season.

19. Water diverted under water right no. 33-2133 for recharge mitigates the effects of ground water diversions during the ensuing irrigation season. Diversion of water under water right no. 33-2133 during the non-irrigation season provides some amount of additional supply to surface and ground water sources downstream from the Knollin Ranch during the ensuing irrigation season. Water diverted under water right no. 33-2133 may not be rediverted during the irrigation season.

20. Historically, for reasons beyond the water user's control, water under water right no. 33-2133 was often difficult to divert through the existing ditch to the place of use because of icing problems. Historically, some portion of this water, therefore, remained in Big Spring Creek during the non-irrigation season, immediately passing downstream as surface water. To the extent this occurred, this water may not have been available to augment ground and surface water supplies during the ensuing irrigation season.

21. After Sagewillow acquired the Knollin Ranch, it installed a pipeline with the capacity to convey 3.71 cfs of surface water from Big Spring Creek under water right no. 33-2133 to several ponds on the Knollin Ranch where the water is allowed to seep into the ground. The pipeline minimizes the historical icing problems and permits Sagewillow to divert 3.71 cfs of the licensed amount of water right no. 33-2133 from Big Spring Creek during the non-irrigation season for recharging ground water and for sub-irrigation uses without the water being rediverted during the irrigation season. In addition, up to 6.71 cfs is diverted from the Little Lost River through a ditch into the same ponds on the Knollin Ranch under water right no. 33-2133, and this water also seeps into the ground. A total of 9.88 cfs, or 2,960 acre-feet annually, can be diverted under water right no. 33-2133 during the non-irrigation season. This development and use has beneficial effects on ground and surface water supplies during the ensuing irrigation season.

Water Rights Nos. 33-2086 and 33-7018

22. Water Rights Nos. 33-2086 and 33-7018, which Sagewillow purchased from David Hawley, were originally licensed for irrigation of a combined total of 260 acres on what is known as the "Frew Place." When Sagewillow purchased 230 of the 260 acres "together with appurtenances" it also purchased the existing wells, the land on which the wells were located, and additional land for access to the authorized points of diversion, including the point of diversion located on the thirty acres retained by David Hawley.

23. Evidence shows that the thirty acres retained by David Hawley have not been irrigated since Sagewillow's purchase of the 230 acres and the appurtenant water rights.

24. Sagewillow provided the Director with an Affidavit of Reed D. Nord, together with documentation from the Frew Place transaction, demonstrating that the intent of the parties to that transaction was that Sagewillow would buy the 230 acres of land, fee access to the wells, and *all* of water right nos. 33-7018 and 33-2086 appurtenant to the 260 acre Frew Place.

25. The original licenses issued to the water users for use on the Knollin Ranch, Bird Ranch, North of Road Place, and Frew Place, together with evidence in the record, demonstrate that the Sagewillow lands require no more than 0.02 cfs per irrigated acre, provided that this limitation should not apply to the diversion of the "high water" rights, identified in Finding No. 7.

Prior Transfer No. 3785

26. In 1992, the Department approved transfer no. 3785 by which Sagewillow proposed to change the place of use under water right no. 33-2091 from the Homestead Place to the North of Road Place. Sagewillow completed a new well, installed mainlines and pivots, and commenced irrigating 320 acres of land, which included 185 acres of the North of Road Place.

27. Sagewillow continued irrigating the 320 acres pursuant to transfer no. 3785 until that transfer was voided by the 1996 Order.

CONCLUSIONS OF LAW

1. The originally authorized place of use under all of the above-described water rights, except for water right no. 33-2133, totals 2,383 irrigated acres. Water right no. 33-2133 originally authorized sub-irrigation of 1,436 acres.

2. Water rights nos. 33-2057 and 33-2083 are recognized as valid to the extent of 0.02 cfs per irrigated acre on the 1,483 acre place of use, 301 acres of which was resumed after Sagewillow purchased the Knollin Ranch.

3. Water rights nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82 are recognized as valid for use on 268 acres within the 1,483-acre place of use described for water rights nos. 33-2057 and 33-2083.

4. Water rights nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82 are recognized as valid for use on 382 acres within the 1,436-acre place of use described for water right no. 33-2133.

5. The Director concludes that licenses for water rights nos. 33-2007 and 33-2008 were superseded by the decree in *Blaine County Investment Co. v. Mays,* (6th Jud. Dist. Idaho, March 4, 1927). These water rights were decreed in that case as water rights nos. 33-71 and 33-73, respectively.

6. Water rights nos. 33-2090 and 33-2091, for irrigation of 640 irrigated acres, were forfeited in their entirety by Slim Hawley before Sagewillow purchased the Homestead Place and the North of Road Place. A portion of water right no. 33-2091 was resumed on 73 acres after Sagewillow purchased the North of Road Place and Knollin Ranch. Water right no. 33-2090 is forfeited entirely.

7. Sagewillow resumed the diversion of ground water under water right no. 33-2091 pursuant to transfer no. 3785. The Department subsequently voided transfer no. 3785. Because Sagewillow resumed its use of water under water right 33-2091 prior to transfer no. 3785 being voided, and because the adverse effects on junior water rights of the resumption were and will continue to be mitigated by historical and continued water diversions under water right no. 33-2133 during the non-irrigation season, the Director recognizes a valid resumption of use under water right no. 33-2091 for irrigation to the extent of 0.02 cfs per acre on 73 acres. The balance of water right no. 33-2091 is forfeited.

8. Facts and applicable law warrant that transfer no. 3785 should remain void.

9. The Director also recognizes a valid resumption of use under water rights nos. 33-2057 and 33-2083 for irrigation to the extent of 0.02 cfs per acre on 301 additional acres, making these water rights valid on a total of 1,483 acres. These water rights are determined to be resumed only up to the extent of their originally licensed quantities and acres.

10. Water rights nos. 33-2086 and 33-7018 are recognized as valid to the extent of 0.02 cfs per acre on a total of 260 acres. Idaho law provides that absent contrary evidence of intent of the parties, it is presumed that a water right will pass as an appurtenance on the sale of the land in parts. Although the deed of the 230 acres from David Hawley to Sagewillow purports to convey only the appurtenant water rights, i.e., that portion of the rights appurtenant to the 230 acres conveyed in the deed, Sagewillow has presented sufficient evidence of the parties' intent that the entire water right was to pass with the 230 acres to rebut the presumption that only a portion was conveyed. Thus, no portion of the water rights remains appurtenant to the 30 acres retained by David Hawley that were part of the original place of use.

11. Clear and convincing evidence of forfeiture of water right no. 33-2133 has not been established. Water right no. 33-2133 is recognized as valid for recharge and sub-irrigation of 1,436 acres, provided that water may not be rediverted for direct irrigation under this water right.

12. The diversion of water under water right no. 33-2133 during the non-irrigation season has a positive effect on ground water levels on the Knollin Ranch and delayed benefits to stream flows and ground water levels downstream from the Knollin Ranch.

13. The resumption of use of water under water rights nos. 33-2057, 33-2083, and 33-2091 will reduce the amount of water available in the Little Lost River downstream from the Knollin Ranch and will reduce accruals to the interconnected ground water source below the Knollin Ranch. The parties have stipulated, and the Director concludes, that the positive hydrologic effects of the diversions under water right no. 33-2133 during the non-irrigation

season described above will offset or mitigate the adverse effects that may be attributable to irrigation of the 73 acres under water right no. 33-2091 and the 301 additional acres under water rights nos. 33-2057 and 33-2083. Therefore, the resumption of water use under these portions of these water rights is recognized.

14. Continued diversion of water under the resumed portions of water rights nos. 33-2057, 33-2083, and 33-2091 are deemed mitigated by, and expressly contingent upon, the continued diversion of water under water right no. 33-2133 during the non-irrigation season to the extent water is available for diversion under that water right.

15. Sagewillow is authorized to irrigate a total of 3,019.8 acres pursuant to this transfer proceeding through a combination of ground water rights, surface water rights, and sub-irrigation. The 3,019.8 acres consist of 1,816 acres irrigated from ground water, 1,436 acres by sub-irrigation under water right no. 33-2133 (less 251 acres overlapped by ground water), and 25 acres irrigated solely by surface water, all more specifically described as follows:

a. 1,816 acres from ground water right nos. 33-2091, 33-2057, 33-2083, 33-2086 and 33-7018. A portion of these acres are also irrigated under surface water rights and 251 acres are sub-irrigated under water right no. 33-2133.

b. 648.8 acres under surface water rights nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82. All but 18.8 of these acres are also irrigated under ground water rights and sub-irrigated under water right no. 33-2133.

c. 1,436 acres under water right no. 33-2133, of which 930 acres are irrigated exclusively by sub-irrigation from water diverted during the non-irrigation season under this water right.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Director hereby orders as follows:

1. Transfer applications nos. 4221, 4222, 4223, 4224, 4225, 4226, and 4227 are **APPROVED** with conditions as set forth herein and as more specifically described and detailed in Attachment 1, consisting of 43 pages, which is appended hereto and incorporated herein by this reference.

2. Sagewillow shall be entitled to irrigate a total of 3,019.8 acres under the water rights that are the subject of this transfer proceeding.

3. Water right no. 33-2090 is forfeited.

4. Except for the continued authorized irrigation of 73 acres, water right no. 33-2091 is forfeited.

5. Transfer no. 3785 shall remain VOID.

6. The resumption of use determinations made in this Final Order are based upon the stipulations of the parties and shall not be cited or relied upon for purposes of precedence.

7. This Order becomes effective upon entry.

DATED this 26th day of July 2004.

Karl J. Dreher
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of July 2004, I served a true and correct copy of the AMENDED FINAL ORDER by delivering the same to the following by the method indicated below, addressed as follows:

Kent W. Foster, Esq.
Holden Kidwell Hahn & Crapo PLLC
330 Shoup Ave.
P.O. Box 50130
Idaho Falls, ID 83405-0130

X U. S. Mail
____ Hand Delivered
____ Overnight Mail
____ Facsimile

Michael C. Creamer
Givens Pursley & Huntley
PO Box 2720
Boise, ID 83701

X U. S. Mail
____ Hand Delivered
____ Overnight Mail
____ Facsimile

Victoria Wigle
Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources

ATTACHMENT 1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NOS. 4221 THRU 4227

This is to certify that: SAGEWILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405-0130
(208)523-0620

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
33-69	AJC/Decreed	06/01/1908	3.20 cfs	N/A	160	655	BIG SPRING CREEK LITTLE LOST RIVER
33-70	AJC/Decreed	10/01/1906	2.80 cfs	N/A	140	655	BIG SPRING CREEK LITTLE LOST RIVER
33-71	AJC/Decreed	03/15/1909	3.20 cfs	N/A	160	655	BIG SPRING CREEK LITTLE LOST RIVER
33-72	AJC/Decreed	05/01/1908	0.80 cfs	N/A	40	655	BIG SPRING CREEK LITTLE LOST RIVER
33-73	AJC/Decreed	04/01/1912	6.40 cfs	N/A	N/A	655	BIG SPRING CREEK LITTLE LOST RIVER
33-74	AJC/Decreed	08/06/1913	1.60 cfs	N/A	N/A	655	BIG SPRING CREEK LITTLE LOST RIVER
33-76	AJC/Decreed	04/01/1913	6.80 cfs	N/A	N/A	655	BIG SPRING CREEK LITTLE LOST RIVER
33-78	AJC/Decreed	10/15/1913	3.20 cfs	N/A	N/A	655	BIG SPRING CREEK LITTLE LOST RIVER
33-79	AJC/Decreed	04/01/1912	1.60 cfs	N/A	N/A	655	BIG SPRING CREEK LITTLE LOST RIVER
33-80	AJC/Decreed	05/01/1908	0.80 cfs	N/A	40	655	BIG SPRING CREEK LITTLE LOST RIVER
33-81	AJC/Decreed	05/01/1908	0.80 cfs	N/A	40	655	BIG SPRING CREEK LITTLE LOST RIVER
33-82	AJC/Decreed	05/01/1908	0.80 cfs	N/A	40	655	BIG SPRING CREEK LITTLE LOST RIVER
33-2133	AJC/License	06/22/1949	N/A	2960.0 af	N/A	1,436	BIG SPRING CREEK LITTLE LOST RIVER
33-2057	AJC/License	02/01/1950	24.00 cfs	5190.5 af	1,483	1,816	GROUND WATER
33-2083	AJC/License	08/23/1957	5.00 cfs	1983.0 af	1,483	1,816	GROUND WATER
33-2086	AJC/License	01/12/1959	4.00 cfs	910.0 af	260	1,816	GROUND WATER
33-2091	AJC/License	01/22/1960	0.99 cfs	255.5 af	73	1,816	GROUND WATER
33-7018	AJC/License	09/12/1972	3.26 cfs	489.0 af	163	1,816	GROUND WATER
33-2007	AJC/License	02/15/1909	2.90 cfs	N/A	N/A	145	LITTLE LOST RIVER
33-2008	AJC/License	06/12/1909	6.40 cfs	N/A	N/A	320	SPRING CREEK
33-2090	AJC/License	12/21/1959	5.93 cfs	960.0 af	N/A	320	GROUND WATER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NOS. 4221 THRU 4227

Purpose of Transfer (Changes Proposed)

Split	POD	POU	Add POD	Period of Use	Nature of Use
NO	YES	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
33-69	**33-69**	3.20 cfs	N/A	160	648.8		N/A	N/A	N/A	N/A
33-70	**33-70**	2.80 cfs	N/A	140	648.8		N/A	N/A	N/A	N/A
33-71	**33-71**	3.20 cfs	N/A	160	648.8		N/A	N/A	N/A	N/A
33-72	**33-72**	0.80 cfs	N/A	40	648.8		N/A	N/A	N/A	N/A
33-73	**33-73**	6.40 cfs	N/A	N/A	648.8		N/A	N/A	N/A	N/A
33-74	**33-74**	1.60 cfs	N/A	N/A	648.8		N/A	N/A	N/A	N/A
33-76	**33-76**	6.80 cfs	N/A	N/A	648.8		N/A	N/A	N/A	N/A
33-78	**33-78**	3.20 cfs	N/A	N/A	648.8		N/A	N/A	N/A	N/A
33-79	**33-79**	1.60 cfs	N/A	N/A	648.8		N/A	N/A	N/A	N/A
33-80	**33-80**	0.80 cfs	N/A	40	648.8		N/A	N/A	N/A	N/A
33-81	**33-81**	0.80 cfs	N/A	40	648.8		N/A	N/A	N/A	N/A
33-82	**33-82**	0.80 cfs	N/A	40	648.8		N/A	N/A	N/A	N/A
33-2133	**33-2133**	9.88 cfs	2960.0 af	N/A	1436.1		N/A	N/A	N/A	N/A
33-2057	**33-2057**	24.00 cfs	5190.5 af	1483	1816		N/A	N/A	N/A	N/A
33-2083	**33-2083**	5.00 cfs	1983.0 af	1483	1816		N/A	N/A	N/A	N/A
33-2086	**33-2086**	4.00 cfs	910.0 af	260	1816		N/A	N/A	N/A	N/A
33-2091	**33-2091**	0.99 cfs	255.5 af	73	1816		N/A	N/A	N/A	N/A
33-7018	**33-7018**	3.26 cfs	489.0 af	163	1816		N/A	N/A	N/A	N/A
33-2007	**33-2007**	N/A	N/A	N/A	N/A	(Superceded)	N/A	N/A	N/A	N/A
33-2008	**33-2008**	N/A	N/A	N/A	N/A	(Superceded)	N/A	N/A	N/A	N/A
33-2090	**33-2090**	N/A	N/A	N/A	N/A	(Forfeited)	N/A	N/A	N/A	N/A
COMBINED TOTALS		**67.19 cfs**	**N/A**	**3019.8**	**3019.8**		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

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	)	**Water Rights: BASIN 33 (SEE ATTACHED LIST)**
Case No. 39576	)	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**

IDWR has completed the following Administrative proceeding:

[] Address change

[] Substitution of Party

[X] I.C. § 42-222 transfer **SAGEWILLOW (TRX 4221 – 4227)**

[X]	point of diversion	[X]	place of use
[]	period of use	[]	nature of use
[]	split of water right	[]	change in ownership

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

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

DATED: July 9, 2004

Ernest Carlson
Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on July 9, 2004, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

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

2. One copy to:
   Claimant/Seller for Substitution of Party or attorney of record:
   SAGEWILLOW INC
   C/O KENT FOSTER
   HOLDEN KIDWELL HAHN & CRAPO
   PO BOX 50130
   IDAHO FALLS ID 83405-0130

3. One copy to:
   Claimant/Purchaser for Substitution of Party, or attorney of record:
   N/A

4. One copy to:
   Each party in the subcase, or attorney of record
   BLAINE COUNTY CANAL CO
   MAYS LAND & LIVESTOCK
   C/O MICHAEL CREAMER
   GIVENS PURSLEY LAW OFFICE
   PO BOX 2720
   BOISE ID 83701-2720

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

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

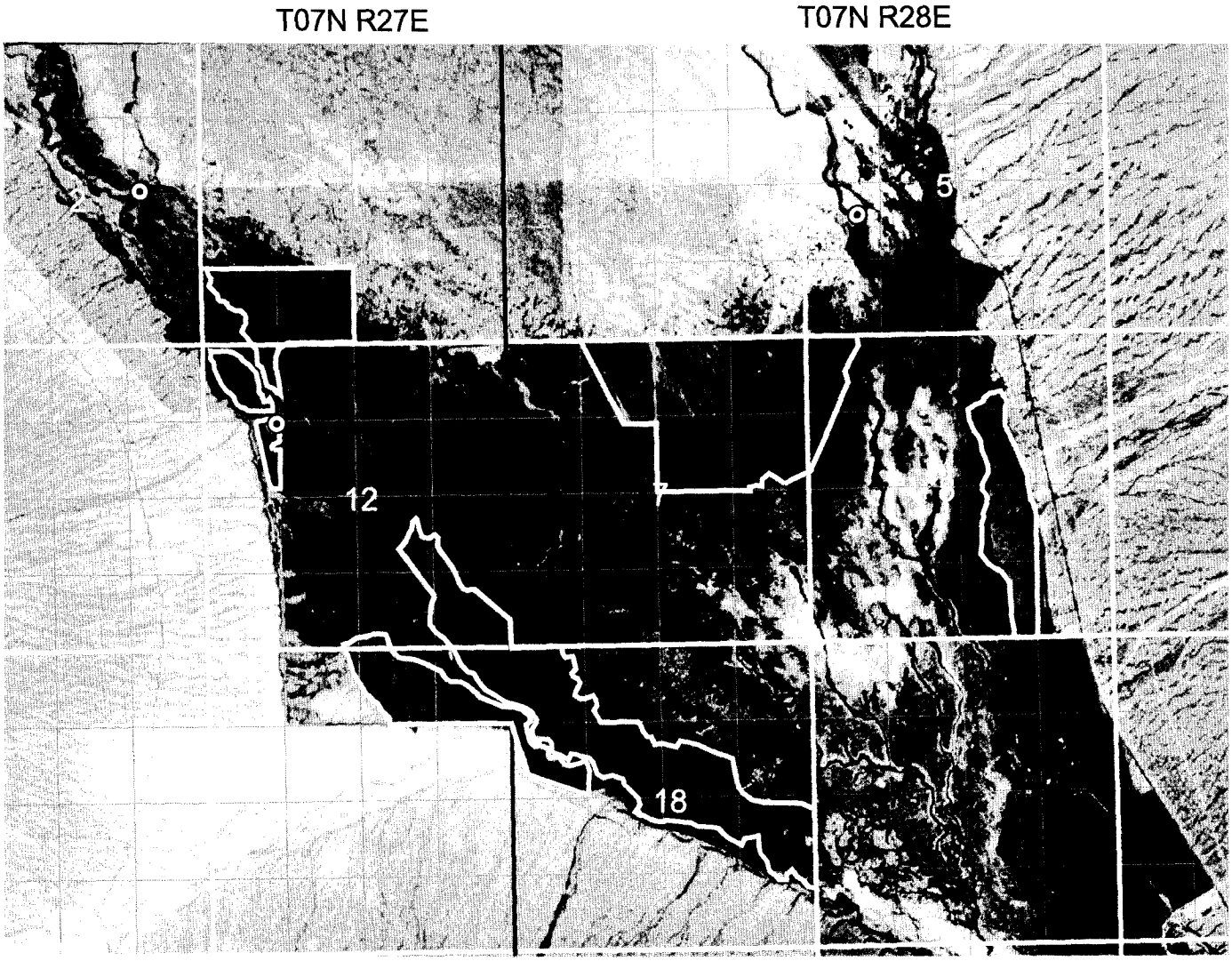
Jennifer Crabtree
Signature of person or attorney mailing the form

SAGE WILLOW WATER RIGHTS

33-69
33-70
33-71
33-72
33-73
33-74
33-76
33-78
33-79
33-80
33-81
33-82
33-2007
33-2008
33-2057
33-2083
33-2086
33-2090
33-2091
33-2133
33-7018

DEPARTMENT OF WATER RESOURCES

Claim Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: E. Carlsen
Date: July 2004

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

RIGHT NUMBER: 33-69

NAME AND ADDRESS:

SAGEWILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405-0130

SOURCE:

Source:	Tributary:
BIG SPRING CREEK	LITTLE LOST RIVER
LITTLE LOST RIVER	SINKS

QUANTITY: 3.200 CFS 0.000 AFY

Use of the rights listed below is limited to a total combined diversion rate of 32.0 CFS. Combined Right Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 and 33-82.

Use of the rights listed below is limited to a total combined diversion rate of 67.19 CFS. Combined Right Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091 and 33-7018.

PRIORITY DATE: 06/01/1908

POINT OF DIVERSION:

T07N R27E S2 SWSENE	Within BUTTE County
T07N R27E S12 NESWNW	Within BUTTE County
T07N R28E S5 NENWSW	Within BUTTE County

PURPOSE AND PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	4/01 11/01	3.200 CFS

PLACE OF USE: IRRIGATION within BUTTE County

T07N R27E S01 SWSW 26.0
T07N R27E S01 SESW 40.0
T07N R27E S12 NENW 0.2
T07N R27E S12 NWNW 19.0
T07N R27E S12 SWNW 7.6
T07N R27E S12 SESW 0.9
T07N R27E S12 NESE 2.5
T07N R27E S12 NWSE 7.6
T07N R27E S12 SWSE 5.0
T07N R27E S12 SESE 29.0
T07N R27E S13 NENE 32.0
T07N R27E S13 NWNE 32.0
T07N R27E S13 NENW 2.0
T07N R28E S07 NENE 40.0
T07N R28E S07 NWNE 40.0
T07N R28E S07 SWNE 40.0
T07N R28E S07 SENE 36.0
T07N R28E S07 NENW 30.0
T07N R28E S07 SENW 1.9
T07N R28E S07 SWSW Lot 4 0.1
T07N R28E S08 NWNE 2.8
T07N R28E S08 SWNE 19.0
T07N R28E S08 NWNW 22.0
T07N R28E S08 SWNW 6.2
T07N R28E S08 NWSE 27.0
T07N R28E S08 SWSE 16.0
T07N R28E S18 SWNE 25.0
T07N R28E S18 SENE 0.2
T07N R28E S18 NENW 1.8
T07N R28E S18 NWNW Lot 1 34.0
T07N R28E S18 SWNW Lot 2 25.0
T07N R28E S18 SENW 31.0
T07N R28E S18 NESW 3.8
T07N R28E S18 NESE 31.0
T07N R28E S18 NWSE 16.0
T07N R28E S18 SESE 2.4

655 ACRES TOTAL

Use of the rights listed below is limited to the irrigation of a combined total of 655.0 acres in a single irrigation season. Combined Right Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 and 33-82.

Use of the rights listed below is limited to the irrigation of a combined total of 2096 acres in a single irrigation season. The 2096 acres are comprised of 1816 acres irrigated by ground water and 655 acres irrigated by surface water sources that overlap 375 of the ground water acres. Combined Right Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091 and 33-7018.

Use of the rights listed below is limited to the irrigation of a combined total of 3026 acres in a single irrigation season. Combined Right Nos.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, 33-2133 and 33-7018.

Rights 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 and 33-82 overlap 268 acres within the 1483 acres authorized under Rights 33-2057 and 33-2083; and overlap 382 acres within the 1436.1 acre place of use described under Right 33-2133.

This right is limited to the irrigation of 160 acres within the place of use described above in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within State Water District No. 33.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the lands above.
The right holder shall accomplish the change authorized by transfer nos. 4221 thru 4227 by June 28, 2005.

Failure of the right holder to comply with the conditions of transfer nos. 4221 thru 4227 is cause for the Director to rescind approval of the transfer.

Prior to diversion of water under transfer nos. 4221 thru 4227, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

~~RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.~~

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

WATER RIGHT NO. 33-69

As Modified by Transfer Nos. 4221 thru 4227

In accordance with the approval of Transfer Nos. 4221 thru 4227, Water Right No. 33-69 is now described as follows.

Right Holder: SAGEWILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405-0130

Priority Date: June 01, 1908

Source: LITTLE LOST RIVER **Tributary:** SINKS
BIG SPRING CREEK LITTLE LOST RIVER

BENEFICIAL USE	From	To	Diversion Rate	Volume
IRRIGATION	04/01	to 11/01	3.20 CFS	
			3.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LITTLE LOST RIVER	SWSENE	Sec. 2	Twp 07N	Rge 27E	BUTTE County
LITTLE LOST RIVER	NESWNW	Sec. 12	Twp 07N	Rge 27E	BUTTE County
BIG SPRING CREEK	NENWSW	Sec. 5	Twp 07N	Rge 28E	BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N 27E 1											26.0	40.0					66.0
07N 27E 12					.2	19.0	7.6					.9	2.5	7.6	5.0	29.0	71.8
07N 27E 13	32.0	32.0			2.0												66.0
07N 28E 7	40.0	40.0	40.0	36.0	30.0			1.9			.1 L 4						188.0
07N 28E 8		2.8	19.0			22.0	6.2							27.0	16.0		93.0
07N 28E 18			25.0	.2	1.8	34.0 L 1	25.0 L 2	31.0					31.0	16.0			164.0

Total Acres: 648.8

CONDITIONS OF APPROVAL

1. Right 33-69 is limited to the irrigation of 160.0 acres within the place of use described above in a single irrigation season.

2. The total instantaneous diversion of water from all points of diversion under Rights 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 and 33-82 shall not exceed 32.00 cfs for the irrigation of 648.8 acres.

3. Rights 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091 and 33-7018 when combined shall not exceed a total diversion rate of 67.19 cfs, and the irrigation of 2089.8 acres. The 2089.8 acres are comprised of 1816 acres irrigated by ground water and 648.8 acres irrigated by surface water sources that overlap 375.0 of the ground water acres.

4. Rights 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82 overlap 268.0 acres within the 1483.0 acres authorized under Rights 33-2057 and 33-2083; and overlap 382.0 acres within the 1436.1 acre place of use described under Right 33-2133.

WATER RIGHT NO. 33-69

As Modified by Transfer Nos. 4221 thru 4227

CONDITIONS OF APPROVAL

5. Rights 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, 33-2133 and 33-7018 when combined shall not exceed the irrigation of 3019.8 acres.

6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.

7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the lands above.

9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

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

Kent Foster filed documents that are identical except for the subcase numbers. I scanned 33-69 of each document and saved it to the additional numbers. We will put the original documents in the legal files.

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 1198

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 A. Subcase 33-69

Case NO. 35976

STATE OF IDAHO)
)ss.
County of Twin Falls)

Charles E. Brockway, affiant herein, deposes and says:

1. Affiant is a licensed professional engineer in the state of Idaho, holds a bachelor of science degree in civil engineering from the University of Idaho, a Master of Science degree in civil engineering from California Institute of Technology and a Doctor of Philosophy degree in water resource engineering from Utah State University. He served on the hydrology staff of the United States Bureau of Reclamation at the regional office in Boise, Idaho and at the research laboratory in Denver, Colorado. For 32 years affiant was on the faculty of the University of Idaho and in charge of research in water resources and irrigation for the university at the research center at Kimberly, Idaho. He is currently the senior member of the firm of Brockway Engineering P.L.L.C.

2. Affiant was retained by Mr. Ed Dumke to provide consultation and advice on water issues in connection with water rights and hydrologic evaluations in connection with the Sagewillow ranch located on Little Lost River. Affiant has

evaluated the depletion effects of additional irrigation scenarios on the Sagewillow ranch to determine the amount and timing of increased depletion which could occur in the Little Lost River downstream.

3. Affiant has prepared a report on this analysis, a copy of which is attached hereto and by this reference made a part hereof.
4. Affient concludes that the resumption of irrigation on Sagewillow does cause depletion in the Little Lost River downstream during the latter part of the irrigation season and that the depletion is proportional to the number of additional irrigated acres.
5. The maximum potential depletion in discharge of Little Lost River due to resumption of irrigation of 978 acres is 5.97 cfs which occurs from the third week in August through the end of the irrigation season.
6. Potential reductions in Little Lost River discharge are less than 10 percent of the average late season September discharge. Changes in discharge of this magnitude or lower would be difficult or impossible to measure with any assurance of accuracy.

Charles E. Brockway

Subscribed and sworn to before me the undersigned notary public, this 11th day of December 2003

Heather M. Maxson
Notary Public for Idaho

(seal) HEATHER M. MAXSON NOTARY PUBLIC STATE OF IDAHO

Residing at Twin Falls, Idaho
My commission expires 2-24-09

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of December, 2003, I mailed the original and copies of this Affidavit of Charles E. Brockway, 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: Sage Willow, Inc.
   c/o Holden, Kidwell, Hahn & Crapo, PLLC
   330 Shoup Ave., Third Floor
   P.O. Box 50130
   Idaho Falls, ID 83405-0130

3. Copies to:
   IDWR Document Depository
   P.O. Box 83720
   Boise, ID 83720-0098

   Michael C. Creamer
   Givens Pursley, LLP
   P.O. Box 2720
   Boise, ID 83701-2720

   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

Kent W. Foster, Esq.

REPORT ON
DEPLETIONS TO LITTLE LOST RIVER
FROM IRRIGATION ON SAGEWILLOW

FOR

ED DUMKE

By
Brockway Engineering P.L.L.C.

December 11, 2003

Introduction

Sagewillow ranch is located in the Little Lost River valley approximately 12 miles upstream from the town of Howe. Irrigation is accomplished by diversion from Little Lost River under various water rights which include ground water exchange, re-diversion and from wells pumping directly to irrigation distribution systems.

Concerns have been expressed by downstream water right holders relative to the depletion caused by increased irrigation on Sagewillow, which may impact water right diversion capability.

Aquifer/River Relationships

The aquifer underlying Sagewillow is an alluvial system with water table aquifer confined by consolidated materials along the valley sides. The Little Lost River flows through the valley and gains from or loses to the aquifer depending on the water levels in the aquifer. The aquifer water levels are affected by local geology. Springs occur within the lower parts of the Sagewillow property which are manifestations of higher water tables intersecting the ground surface. As a result, the Little Lost River gains flow within this reach which terminates downstream of the south boundary of Sagewillow just upstream of the Blaine Canal diversion. Downstream of the Blaine Canal diversion, the aquifer water levels are below the stream bottom and the river is a losing reach. The valley aquifer below the Blaine Canal diversion becomes considerably wider and reaches a width of more than six miles near Howe. The stream/aquifer relationships and gaining and losing reaches of Little Lost River are documented in a report by C.E. Brockway titled A Study of Water Transfer Losses –Little Lost River dated February 1993 and appended to this report.

Consumptive depletions occurring from irrigation on Sagewillow affect the total water leaving the ranch both as surface water and as ground water underflow. Specifically, any water pumped from the shallow aquifer on Sagewillow for irrigation results in a net consumptive depletion within the aquifer which ultimately does not reach the Little Lost

River through aquifer flow and emerging springs within the lower part of the ranch and on downstream.

Ground water flows through the shallow aquifer on Sagewillow are governed by the gradient of the water table and the hydraulic conductivity or permeability of the aquifer media. This aquifer, as indicated by lithology documented in driller's logs, consists of sand and gravel with some interbedded clay lenses. The hydraulic conductivity of the aquifer is estimated at approximately 200 ft/day under unit gradient based on the U.S. Bureau of Reclamation Ground Water Manual (1977). The water table gradient can be approximated by the ground surface gradient across the ranch parallel to the direction of flow. This gradient was estimated from topographic data to be 0.0617 ft/ft. Using Darcy's law for flow through porous media, the calculated effective ground water flow velocity is 12.35 ft/day. The irrigation wells for the ranch are located in Sections 1, 6, and 12 and the centric of those wells is estimated at 1620 feet up-gradient from the south boundary of the ranch. The estimated travel time for ground water from the wells to the south boundary of the ranch and into Little Lost River through springs is 131 days or 4.37 months (Appendix 1)

Irrigation Depletion Estimates

Vegetation growing on lands overlying the aquifer extracts moisture from the soil profile. This moisture is supplied from irrigation application and/or precipitation. Non-crop vegetation in this area is normally range grass and/or sagebrush, which generally use all of the effective precipitation occurring during the summer season. Irrigated crops require the addition of soil moisture plus the precipitation occurring during the growing season. Therefore, the net depletion occurring from the conversion of natural vegetation to irrigated crop is the difference between the historical non-crop consumptive use and the new crop consumptive irrigation requirement.

In order the evaluate the net depletion from irrigation of additional lands on Sagewillow, the monthly effective precipitation based on the station at Howe and the monthly consumptive irrigation requirement for pasture were utilized.

Testimony by Mr. Jerry Pancheri, operator of the irrigation system on Sagewillow indicated that a total of 2390 acres were irrigated during 1993. Other testimony indicated

that historically the irrigated area on Sagewillow might have been approximately 1412 acres. Therefore, the added acres may have been as much as 978 acres. The attached spreadsheet shows the monthly net depletion due to resumption of 978 acres of irrigation on Sagewillow. It is assumed, based on Mr. Pancheri's testimony, that the irrigation water source for any acres in excess of 1412 was provided from the current wells in the shallow aquifer (Appendix 1).

River Depletion Estimates

The net depletion of the total water resource based on 978 added acres of irrigation is 2464 acre-feet during the growing season. Based on the aquifer properties and water table gradient, it takes approximately 4.37 months (131 days) for this effect to reach the Little Lost River. Therefore, the depletion occurring on April 15(the official start of the irrigation season) at the wells does not reach the river until August 26 and depletive effects occur during the irrigation season from August 26 to October 15 or 49.5 days. The Little Lost River therefore is subject only to depletions occurring at the wells from April 15 through June 5 or 584.7 acre-feet. This analysis assumes that the full depletive effect is manifested in reduced inflow to Little Lost River. Some of the depletion may result in reduction in ground water underflow, which would reduce the depletion in river flow. Similarly, decreased water levels in a stream can result in increased ground water gradient toward the stream in a gaining reach, resulting in additional induced inflow and reducing the effect of upstream depletions. The estimated depletions in Little Lost River due to resumption of irrigation on land less than 978 acres are shown in Appendix 1.

The reduction in unmeasured inflow to Little Lost River occurs in the gaining reach from the south boundary of Sagewillow to above the Blaine Canal diversion. The estimated maximum reduction in stream flow of 584.7 acre feet averaged over the 49.5 days of the irrigation season during which the reduction takes place could result in a decrease in discharge of 5.88 cfs. The average flow in September of Little Lost River at the USGS gage upstream of Sagewillow near Wet Creek is approximately 56 cfs. The net gain in the river from the Wet Creek gage downstream to the Blaine Canal Diversion is about 10% based on measurements made by C.E. Brockway in October 1992 so the estimated average September discharge at the Blaine Canal diversion is 61.6 cfs. The estimated

maximum reduction in stream flow of 5.97 cfs is 9.7 percent of the September average flow.

Discharge measurements normally utilized for stream flows are generally performed using current meters. The relative accuracy of a current meter discharge measurement depends on the geometry of the channel, roughness of the channel bottom and precision with which the individual velocity measurements are performed. Generally, routine steam flow measurements in natural stream sections are rated ±5 to 10 percent with a 'good' measurement, according to the USGS criteria, being ±5%. The estimated maximum depletion in stream flow of 5.97 cfs, or 9.7 % of the average September flow is within the accuracy range of normal discharge measurements. Changes in discharge below this magnitude, in the 4 to 5 cfs range, would be difficult to measure with any assurance of accuracy.

APPENDIX 1

Depletion Analysis-Sagewillow

Evaluation of additional net depletion resulting from irrigation of acres in excess of 1412

Acres irrigated= 2390

Additional acres irrigated 978

Depletion based on acres irrigated. Acres include all lands irrigated from groundwater and from Little Lost River.

Estimated time of travel from wells to springs at end of property= 4.37 months

	Time of Arrival	Days	Area irrigated** acres	Area Increase acres	Consumptive IR Pasture mm/day	Consumptive IR Pasture mm/mo	Consumptive IR Pasture ft/mo	Effective Precip mm/day	Effective Precip mm/mo	Effective Precip ft/mo	Net Depletion** mm/mo	Net Depletion** ft/mo	Net Depletion** acre ft/mo	Acc. Dep	
													0	0	
April	4	8.37	30	2390	978	1.82	54.6	0.179	0.31	9.3	0.031	45.3	0.149	145.4	145.4	4
May	5	9.37	31	2390	978	4.57	141.67	0.465	0.76	23.56	0.077	118.11	0.388	379.0	524.3	5
June	6	10.37	30	2390	978	5.77	173.1	0.568	1.07	32.1	0.105	141	0.463	452.4	976.7	6
July	7	11.37	31	2390	978	6.15	190.65	0.625	0.34	10.54	0.035	180.11	0.591	577.9	1554.7	7
August	8	12.37	31	2390	978	4.82	149.42	0.490	0.56	17.36	0.057	132.06	0.433	423.7	1978.4	8
Septembe	9	13.37	30	2390	978	3.42	102.6	0.337	0.37	11.1	0.036	91.5	0.300	293.6	2272.0	9
October	10	14.37	31	2390	978	2.14	66.34	0.218	0.21	6.51	0.021	59.83	0.196	192.0	2464.0	10
	10.1															
November	11						878.38	2.882	3.62	110.47	0.362	767.91	2.519	2464		
	11.5															
December	12															
	12.5															
January	13															
	13.5															

Net Effect on River with time lag 584.7

Depletion occurs only during the last 49.5 days of the irrigation season

* Based on Allen and Brockway (1983) for Howe Station.

** Range vegetation assumed equal to effective precip.

***Acres above 1412

Depletion from Different Sizes of Irrigated Area

Area irrigated in excess of base irrigated area of 1412 acres

Irrigation Seaso 15-Apr to 15-Oct or 183 days

River depletion period 49.5 days Aug 26 to Oct 15

Estimated average September discharge-Little Lost River at Blaine Div. 51.6 cfs

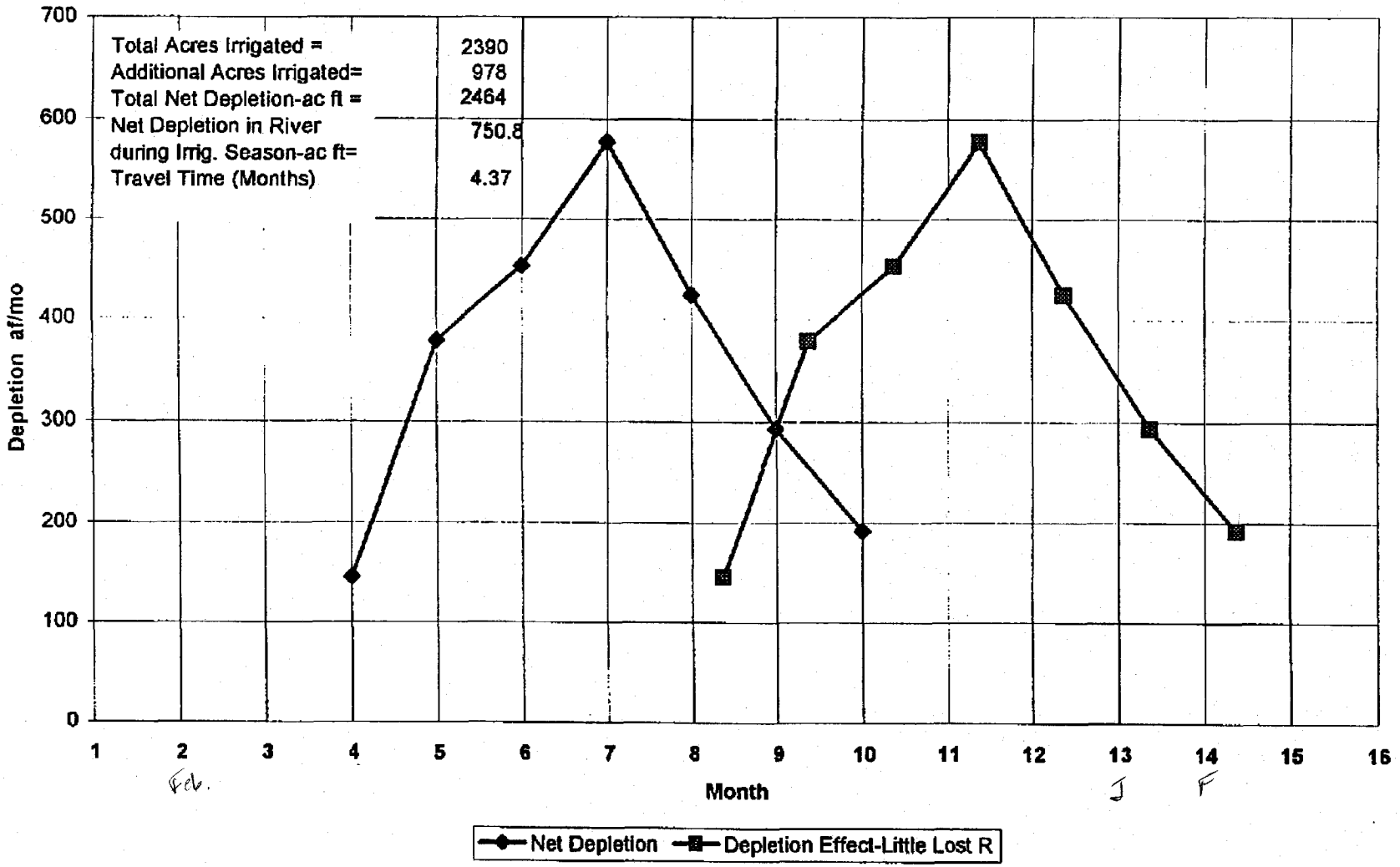
Area Acres	Add acres	Total Depletion af	Depletion of River af	af/day	cfs avg.	%of avg Q
1412	0	0	0	0	0	0
1500	88	221.7	52.6	1.1	0.54	0.87
1600	188	473.6	112.4	2.3	1.15	1.85
1700	288	725.6	172.2	3.5	1.76	2.85
1800	388	977.5	231.9	4.7	2.37	3.84
1900	488	1229.5	291.7	5.9	2.98	4.83
2000	588	1481.4	351.5	7.1	3.59	5.82
2100	688	1733.3	411.3	8.3	4.20	6.81
2200	788	1985.3	471.1	9.5	4.81	7.80
2300	888	2237.2	530.8	10.7	5.42	8.79
2390	978	2464.0	584.7	11.8	5.97	9.68

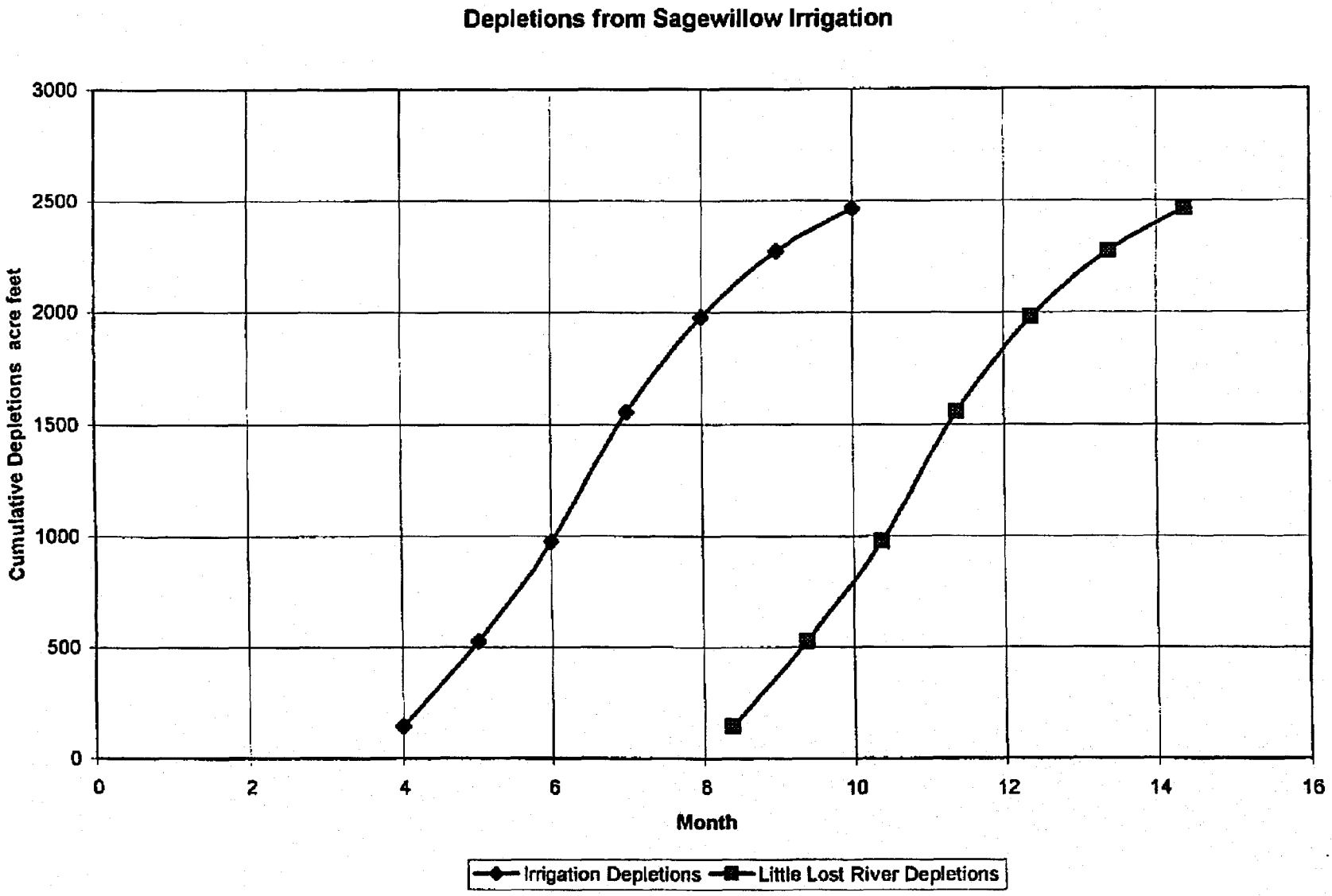
Estimate of aquifer flow time lag-Sagewillow ground water pumping CEB 12/5/2003

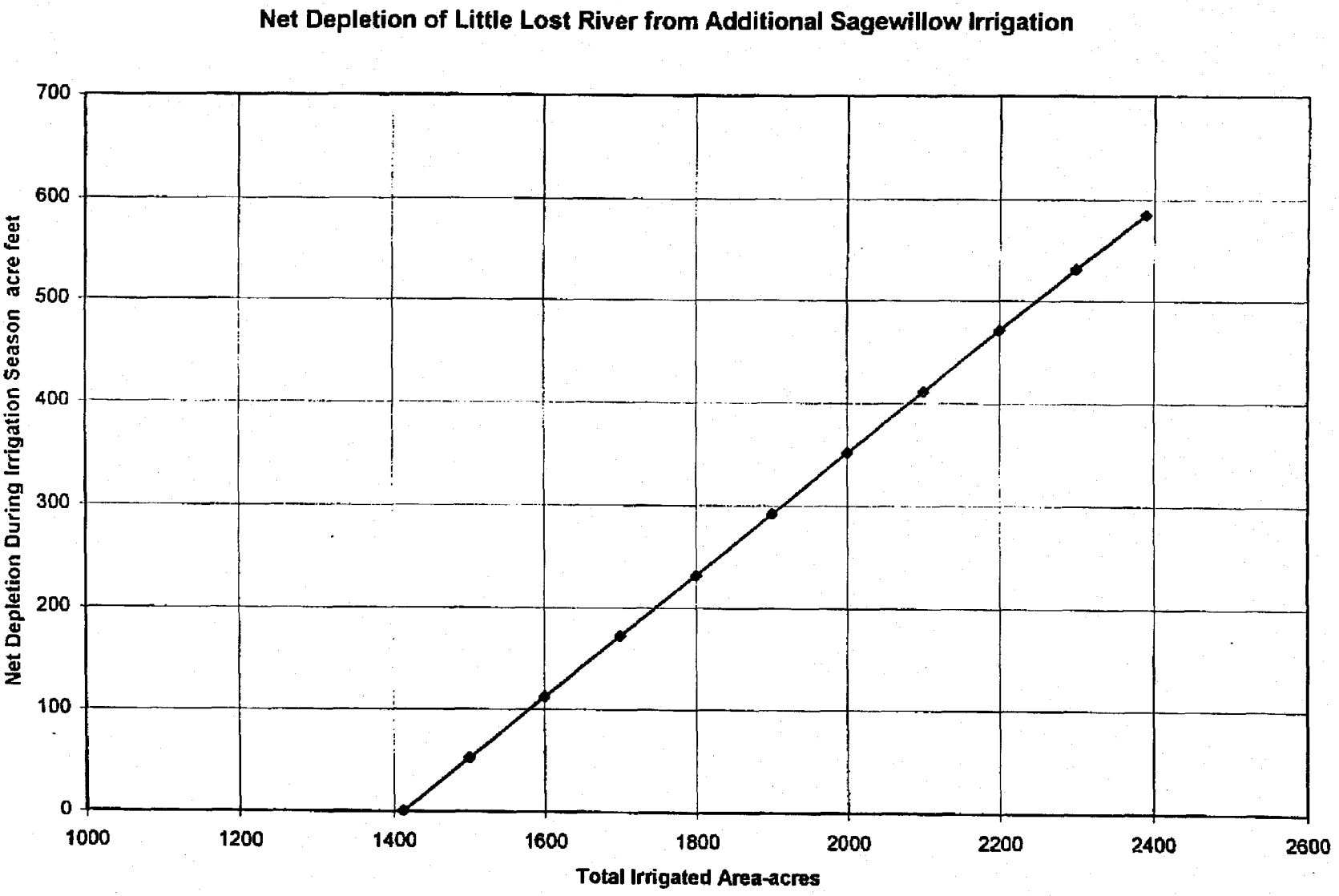
Assumes irrigation of acres above 1412 is supplied from wells on Sagewillow
Estimated hydraulic conductivity 200 ft/day Based on drillers logs and USBR Ground-water manual-Clean Sand and Gravel

Ground Surface Elevation Wells		South End	Difference	Distance	Gradient	Velocity	Time of Travel	
ft		ft	ft	ft	ft/ft	ft/day	days	months
	5320	5220	100	1620	0.06173	12.35	131.2	4.37

Irrigation Depletion-Sagewillow




Depletions from Sagewillow Irrigation
Cumulative Depletions acre feet
3000
2500
2000
1500
1000
500
0
0
2
4
6
8
10
12
14
16
Month
Irrigation Depletions
Little Lost River Depletions


Net Depletion of Little Lost River from Additional Sagewillow Irrigation
Net Depletion During Irrigation Season acre feet
700
600
500
400
300
200
100
0
1000
1200
1400
1600
1800
2000
2200
2400
2600
Total Irrigated Area-acres

A STUDY OF WATER TRANSFER LOSSES
LITTLE LOST RIVER

BY

C.E. BROCKWAY P.E.

FEBRUARY 1993

WATER TRANSFER LOSSES-LITTLE LOST RIVER

INTRODUCTION

The Little Lost River Basin in Idaho lies between the Lost River Range and Lemhi Range of mountains and drains south toward the Eastern Snake River Plain. The Little Lost River is formed by joining of Sawmill Creek and Summit Creek in T10N R26E. Some of the major tributaries include Dry Creek, Wet Creek, Deer Creek, Badger Creek, and Uncle Ike Creek. The river and tributaries support extensive irrigation by individual and cooperative irrigation entities. Most of the tributaries are developed for irrigation and the river is totally diverted for irrigation during the irrigation season.

Water rights within the basin are administered by Water District No 31 with a water master and Board of Directors as authorized under Idaho Code. The regulation of water deliveries is performed by the water master under the direction of the Idaho Department of Water Resources based on valid decreed and licensed water rights and permits and approved transfers. Idaho Code allows for development of surface and ground-water under the prior appropriation doctrine and for transfers and changes in points of diversion of established water rights so long as no injury to other water right holders results. When the point of diversion and/or place of use of an established water right is changed, there is usually a change in the hydrologic balance of the stream-aquifer system compared with the balance prior to the transfer. Determination of that change, and the resultant impact on current right holders, depends on quantification of the change in the reach-gain from seepage or subsurface inflow from the point of the historical diversion to the new point of diversion. Downstream transfers, when allowed, have usually been assigned some quantify of "shrink" or decrease in diversion allowed to account for the change in water balance. Quantification of the amount of "shrink" allowed in the Little Lost River system is critical to equitable distribution of water under established rights.

The purpose of this report is to review current data on the hydrology of the Little Lost River including measurements of reach gains and losses and to present a concept for allocation of losses to be assigned to transferred water.

PHYSICAL FEATURES OF THE BASIN

The Little Lost River basin comprises a drainage area of approximately 900 square miles with small, short, usually ephemeral streams entering from the east and somewhat longer streams draining from the Lost River Range on the west.

Nearly all of these streams have developed alluvial fans composed of highly permeable materials which increase seepage and decrease surface flows reaching the river. The valley floor, covered with alluvium of varying depths, averages about 6 miles wide. Large masses of bedrock jut into the valley floor from both east and west sides(Clebsch, Waite and Decker, 1974).

RIVER -AQUIFER RELATIONSHIPS

Generally, the aquifer underlying the valley is an unconfined system, however, clay layers may produce localized perched or semi-confined systems. This is especially true near the mouth of the valley near Howe where sediments tend to be more fine- grained as the aquifer integrates with the Snake Plain basalt aquifer. Water tables in the alluvium are generally below the water level in the river; however local geology and rock intrusions cause anomalies in the water table gradient which result in springs and gains to the river (Clebsch, Waite and Decker, 1974). Aquifer water levels adjacent to the river are generally below the river except for a reach beginning below the confluence of Big Spring Creek to just upstream of the USCE structure. Data from Mundorff(1963) indicate that the Little Lost river loses to the aquifer even in the reach parallel to Big Spring Creek.

DISCHARGE MEASURING STATIONS

Gauging stations have been operated by the USGS at three stations on the LIttle Lost River. The gage Little Lost River near Howe was operated from 1921 through October 1991. This gauging station is located in Sec 11 T6N R28E, approximately 1/4 mile above the Blaine Canal Diversion. The gauging station Little Lost River above Wet Creek near Howe has been operated since January 1958 and is located in Sec 4 T10N R28E approximately 1/4 mile below the mouth of Wet Creek. A station was operated at the mouth of Sawmill Canyon called Sawmill Creek near Goldburg from 1960 through 1973. Daily average discharge is published for each station except when the stations were inoperable due to ice or other factors.

HISTORICAL STREAM LOSS MEASUREMENTS

Several investigators have made measurements of losses in specific reaches of the LIttle Lost River in connection with litigation and for other studies. Copies of the Idaho Department of Water Resources records containing information on historical measurements of stream losses were furnished by Mr. Tim Luke of the Boise IDWR office.

A series of measurements were made on August 17, 18, and 21 of 1923 by the USGS and reported in a letter to Mr. W.G. Swenson, Idaho Commissioner of Reclamation. These measurements included inflow-outflow on Dry Creek from the Dry Creek Dam to the mouth of Wet Creek, Little Lost River from Raymond Ranch (above Wet Creek) to Holland Ranch (below Badger Creek), Little Lost River from Holland Ranch to above the Blaine County Diversion Canal, and a series of measurements on Sawmill Creek and Sawmill Ditch. These measurements included estimates of some smaller flows but most were made with current meters. The letter indicates that a heavy rain occurred during the last day of measurement making those measurements in the Sawmill Creek-Sawmill Ditch area 'not altogether favorable'.

The following table summarizes the results of these measurements for Dry Creek-Wet Creek and the Little Lost River:

Reach	Total Inflow	Diversion or Outflow	Loss
	cfs	cfs	cfs
Dry Cr. at mouth of pipeline to Wet Cr. nr mouth	83.12	65.18	17.94 or 21.6%
Little Lost at Raymond ranch(above Wet Cr.)to Holland ranch(below Badger Cr.)	110.82	100.61	10.21 or 9.2%
Little Lost at Holland ranch to above Blaine Div.	112.97	109.71	3.26 or 2.9%
Combine Little Lost at Raymond ranch(above Wet Cr.) to above Blaine Div.	141.91	128.64	13.47 or 9.5%

The 1923 measurements were made on two separate days when the measured difference in discharge of the Little Lost River at Holland Ranch was over 2 cfs.

On May 4 and 5, 1926 Mr G.G. Paulsen, assisted by Mr. Nephi Hansen, water master for LIttle Lost River, made a series of measurements on Dry Creek and the Little Lost River as reported in a letter from Mr. Paulsen to W.G. Swendsen on May 14, 1926. A summary of those measurements is as follows:

Reach	Total Inflow	Diversion or Outflow	Loss
	cfs	cfs	cfs
Dry Creek Dam to Mouth of Wet Creek	35.58	23.74	11.84 or 33%
Little Lost above Wet Creek to wagon bridge 1 1/2 miles above Holland ranch	87.85	84.37	3.48 or 3.96%
Little Lost River above Holland ranch to above Blaine Div.	117.22	108.98	8.24 or 7.03%
Combine Little Lost above Wet Creek to above Blaine Div.	124.77	113.05	11.72 or 9.4%

On August 25, 1928 the USGS reported in a letter to Mr Geo. N. Carter, Idaho Commissioner of Reclamation on discharge measurements made on August 19, 20, 1928 to determine losses from Dry Creek to the Blaine Diversion. The following summarizes those findings:

Reach	Total Inflow	Diversion or Outflow	Loss
	cfs	cfs	cfs

Div. canal below end of Dry Creek pipe line to Corral Cr. at mouth	20.3	14.5	5.8 or 28.6%
Corral Cr.at mouth to Wet Creek at mouth	27.64	23.67	3.97 or 14.4%
Little Lost below Wet Cr. to above Knollin Ranch	51.21	42.18	9.03 or 17.6%
Little Lost above springs at Knollin Ranch to below springs at Knollin R.	43.3	42.9	0.4 or 0.9%
Little Lost below springs at Knollin R to Blaine Div.	66.93	62.18	4.75 or 7.1%
Combine-Little Lost below Wet Cr. to Blaine Div.	77.55	63.38	14.17 or 18.3%

A series of measurements were made be E.G. Bailey of the USGS on July 25, 25, 1932 and reported in a letter to R.W. Faris, Idaho Commissioner of Reclamation on August 4, 1932 by T.R. Newell, District Engineer, USGS Boise. These measurements appear to be useful; however, the copy from the IDWR files is not readable.

The USGS measured 18 sites from Wet Creek above Corral Creek to the Little Lost River above the Blaine Diversion on September 5,6, 1933 as reported in a letter from T.R. Newell to R.W. Faris on September 19, 1933. The analysis of these measurements is not as complete as previous USGS communications; however, a summary of the measurements is as follows:

Reach	Total Inflow	Diversion or Outflow	Loss
	cfs	cfs	cfs

Wet Cr. above Corral Cr. to Wet Cr. at mouth	18.60	14.02	4.58 or 24.6%
Little Lost below Wet Cr. to above Knollin ranch	21.16	12.03	9.13 or 43.1%
Little Lost below Knollin ranch to Blaine Div.	36.19	31.3	4.89 or 13.5%
Combine Little Lost below Wet Cr. to Blaine Div.	44.85	32.13	12.72 or 28.4%

E.G., Bailey of the USGS reported on measurements made on the Little Lost River and tributaries obtained during August 25-28, 1935. He was assisted by N.W. Hansen. Measurements were made at 31 sites on Dry Creek, Wet Creek, Sawmill and Little Lost River. Some measurements concerned with the old Sawmill By-pass canal and the Summit Creek canal. The following is an extract and compilation of pertinent loss calculations based on Mr. Bailey's report of measured flows:

Reach	Total Inflow	Diversion or Outflow	Loss
	cfs	cfs	cfs
Wet Creek above Corral Cr. to Wet Cr 0.3 mi. above mouth	21.66	17.88	3.78 or 17.5%
Little Lost below Wet Cr to above Knollin ranch	34.77	24.17	10.66 or 30.5%
Little Lost above conf. w/ Spring Cr to above Blaine Div.	45.03	41.09	3.94 or 8.7%

The IDWR files contain a list of measurements for 11 stations made on May 15 and 16, 1968 titled Wet Creek and Little Lost River Loss Measurements. There is no indication of the location of the 11 stations or who made the

measurements. Calculations include a list of percentage losses from Dry Creek Ditch to the various stations as follows:

Loss from Dry Creek Ditch To:	Loss
Station No. 2	1.0%
Station No. 3	7.9%
Station No. 4	10.7%
Station No. 5	--
Station No. 6	17.1%
Station No. 7	17.5%
Station No. 8	20.1%
Station No. 9	30.2%
Station No. 10	Gain
Station No. 11	40.7%

Station No 11 was listed as the Howe Station which is likely the USGS gage operating as Little Lost River near Howe in 1968 which was the gage upstream of the Blaine Canal Diversion.

Clebsch, Waite and Decker (1974) discuss river channel gains and losses and point out that some 'losses' may actually return to the stream down the valley where the stream gains through spring flows and/or unmeasurable ground-water inflow. This publication does not provide detailed data on the quantity of stream loss or gains but does point out that the river gains or loses based on adjacent aquifer water levels. Mundorf, Broom and Chabot (1963) provided insight to the intricate relationships of the ground-water system and the river based on measurements of some 40 different sites including the main river, tributaries, and spring inflows. The purpose of this study was to define the hydrology of the Little Lost River basin and apparently no detailed analysis of flow data was performed.

RECENT MEASUREMENTS OF LOSSES

In order to define reach gains and losses, a series of measurements of the river and inflows and outflows was performed on October 27, 1992 by C.E. Brockway P.E. and Clearance W. Robison P.E. During this period of the year, aquifer levels are normally lower than late spring or early summer due to ground-water inflow recession and any affects due to irrigation pumping. Since the Upper Snake River and tributaries have experienced a drought since 1987, general aquifer water levels are likely lower than normal historical levels. Gains to the Little Lost River should be expected to be lower than normal and losses to be

higher. River and inflowing streams and springs were measured using current meters and operating diversions were measured through the diversion measuring structures, usually submerged orifices. Current meter measurements were made using Ott propeller type meters using standard measurement procedures. All operating diversions were measured. Some diversions, although closed, were leaking but the leakage was not significant.

Measurements were made beginning early the morning of October 27, 1992 using two water measurement teams. Each team measured a series of sites as measurement proceeded from the road bridge at the mouth of Sawmill Canyon downstream to the last diversion at Mr. Bob Mays near Howe. No water was flowing in LIttle Lost River below the Mays diversion. Measurement proceeded downstream so that the time between successive measurements used for loss calculations would be minimized and the diurnal fluctuations in flow would not be significant.

Duplicate measurements at two sites were made by each team to assure that differences between measurements by different personnel were not excessive.

Measurements were also made on the lower reach of Summit Creek just upstream from the confluence with Little Lost River and on Wet Creek beginning below the Dry Creek Hydro inflow to the county road bridge upstream of the confluence with Little Lost River.

Locations of each measurement site were determined using USGS 7.5 minute topographic maps and river mile locations were determined using a distance wheel on the USGS maps.

Calculation of losses between river measuring stations was based on the sum of inflows minus the sum of outflows in the reach. Inflow includes all measured surface inflow including the river at the upstream end of the reach and outflows include all diversions and the flow of the river at the downstream end of the reach. Table 1 shows the measurements made at each site, the river mile of each site progressing upstream from the Bob May diversion, and the calculated gain or loss in the river reach.

Figure 1 shows the measured losses between each measuring site on the topographic map and Figure 2 shows the loss per mile between stations. Figure 3 is a plot of the loss for each reach as a percentage of total inflow into the reach. The river loses between the mouth of Sawmill Canyon and the USGS gage below Wet Creek then gains approximately 1.5 cfs per mile between the USGS gage and Badger Creek. The highest losing reach, about 3.8 cfs per

mile, is between Badger Creek and below Big Spring Creek. Below Big Spring Creek to the USCE structure, the river gains approximately 4.8 cfs per mile which is consistent with the higher aquifer water levels as indicated by Clebsch, Waite and Decker, 1974. Downstream of the USCE structure, the river is a continuously losing reach. The 1992 measurements indicated a net loss of 78% in the reach from the Sawmill Canyon road to the May Diversion based on the summation of losses by individual sub-reach for the length of the river.

The Bureau of Land Management has made several sets of measurements to determine stream discharges in connection with applications for maintenance of insert flows. Measurements have been made on Wet Creek, Badger Creek, Deer Creek, Big Spring Creek and Warm Springs Creek. However, apparently no measurements have been made on Little Lost River. Wet Creek measurements were made during 1990, 1991, and 1992 at six sites beginning at the US. Forest Service boundary downstream to the confluence with Little Lost River. Inflow to Wet Creek and diversions from the creek may have been measured but were not reported in data received from the BLM so stream losses cannot be determined.. Differences in stream flows on tributaries such as Badger Creek were also reported but it is not clear whether any diversions or inflow were occurring between measuring points.

CONCEPTS FOR ESTIMATING LOSSES

Decisions on whether or not transfers should be allowed are dependent on the determination of whether or not injury may occur to senior water right holders or whether mitigation for injury can be effected by proper conditions attached to the transfer. On the LIttle Lost River, all loss measurements, current and historical, indicate that the river experiences a net loss of flow over the full length of the valley. However, there are reaches of the river which experience significant gains. Transfers of water rights for significant distances downstream to new points of diversion should recognize that transferred water is subject to a reasonable loss along with other allocated water in the stream. When additional water is carried in a stream, the water level is raised an amount depending on the stream geometry. This rise in water level increases the wetted or seeping area of the stream and causes increased pressure on the wetted area. Figures 4 and 5 show graphically the effect on the stream channel due to increased stream flow. If the water level is below the stream water level, the stream is losing water and the increased stream flow increases the loss, Figure 3 If the water level in the aquifer is above the stream water level, the stream is gaining

and the increased stream flow causes a decrease in the ground-water gradient toward the stream and decreases the inflow or gain, Figure 4. The theory, held by some, that downstream transfer of water and the resulting increase in stream flow does not increase stream losses or decrease ground-water inflow is not valid. The concept that the "new" water essentially rides on top of the "old" water with no change in net stream loss is not valid. Unfortunately, precise mathematical quantification of changes in natural stream losses is not possible. However the determination of the feasibility of transfer applications, and the equitable administration of approved transfers, depends on whether reasonable procedures for assigning losses or 'shrink' to water transferred downstream to new points of diversion can be developed.

Since it is not hydraulically possible nor economically feasible to install continuous discharge measuring devices at a sufficient number of sites along the river to document losses or gains for short reaches, some simplified but equitable method with reasonable hydrologic justification must be adopted.

Uniform Linear Losses

One procedure is to utilize a linear relationship between percentage of total inflow and distance with the relationship based on measured losses in the main stream and accounting for all inflows and diversions. Using a uniform linear loss distribution averages the total loss over the reach and gives credit for gains to transferred water. Figure 5 shows the uniform linear relationships from below Sawmill Canyon road to the May diversion for the 1992 loss measurements. Using this relationship, the loss assign able to a transfer from point A to point B in Figure 5 is 56 percent minus 15 percent or 41 percent.

Uniform Linear Loss over Sub-reaches

Using this procedure, the loss rate between measuring stations is assumed uniform and full credit for gain is given to transferred water. This method recognizes the differences in gains and losses between subreaches; however, there is a question as to whether the transferred water should share fully in the natural gain over a sub-reach. Figure 6 shows a plot of percentage losses for the 1992 measurements from Sawmill Canyon road to the May Diversion. Using this procedure, the assigned loss for a transfer from point A to point B would be 95 percent minus 40 percent or 55 percent, Figure 6.

Figure 7 shows a comparison of the procedure for loss assignment using a uniform linear distribution and uniform linear loss over sub-reaches.

Uniform Linear Loss without Gain Allowance

A third alternative procedure for loss assignment is to assign losses to transferred water over sub-reaches where loss occurs but not allow any credit for natural gain to the transferred water. This procedure is based on the premise that the natural gain is not affected by the additional water in the stream or at least is not affected significantly. Using this procedure could result in estimated losses over long reaches of greater than 100 percent and is not recommended. Losses in tributaries can be developed using similar procedures. The 1992 loss measurements included only the reach of Wet Creek from the Dry Creek Hydro inflow to the County Road bridge above the mouth which exhibited a loss of 17.25 percent. Historical measurements indicate losses on Wet Creek from either the confluence of the old Dry Creek flume or from Corral Creek at 17 to 24 percent. A reasonable loss value for the reach from the Dry Creek Hydro to the mouth of Wet Creek is 20 percent.

CONCLUSIONS

The hydrogeology of the Little Lost River is complex and results in river-aquifer exchanges which make definition of stream losses or gains difficult. Historical measurements of losses have concentrated on the Dry Creek-Wet Creek segment and on the Little Lost River from the Wet Creek confluence down to the Blaine Canal Diversion. Water diversions transferred downstream should share in the natural losses experienced over the length of the transfer and new diversions decreased appropriately. Operating losses cannot be adequately defined by location or seasonally without a planned program of water measurement specifically designed to define the losses by river reach. Any procedure for allocation of transfer losses should be based on a consistent water measurement program and the losses updated as new measurements become available. The procedure should be usable by the water master without extensive mathematics and applicable to all transfers. Stream losses and gains calculated from the series of water measurements made on October 27, 1992 are reasonable estimates of current losses and gains for the reaches measured. Comparisons of the 1992 measured losses with historical losses are reasonable except for measurements made in the early 1920's.

RECOMMENDATIONS

1. A water measurement program on the LIttle Lost River and tributaries designed to define losses on the main river and pertinent tributaries should be initiated. Consideration should be given to defining seasonal and climatic variations in loss rates.

2. Consideration should be given to re-activating the USGS gage above the Blaine Canal diversion to provide another real-time measurement of river flow at two points for assistance in water distribution and regulation and to provide data for loss determinations.

3. A program for annual maintenance and evaluation of water measurement devices on all diversions and tributary inflows where possible should be implemented. Currently some diversion structures and measuring devices are in need of repair or cleaning and are likely not providing accurate measurements of diverted water. Provisions for measuring devices on major tributaries would provide additional data for continuing loss measurements.

4. A procedure to assign losses to downstream water transfers should be adopted and implemented with the 1993 irrigation season. In light of the large variation in losses and gains in the LIttle Lost River and the difficulty in defining the beginning and end of specific gaining or losing reaches, the recommended procedure is to use a uniform linear estimate of the percent loss. This procedure can be based on the 1992 measured loss rates for initial values and can be structured for any initial starting point.. The losses used in the estimates should be updated based on the water measurement program.

5. Consideration should be given to providing real or near real-time notification to the water master of the operations of exchange wells so that timely allocation of river flows based on priorities can be made.

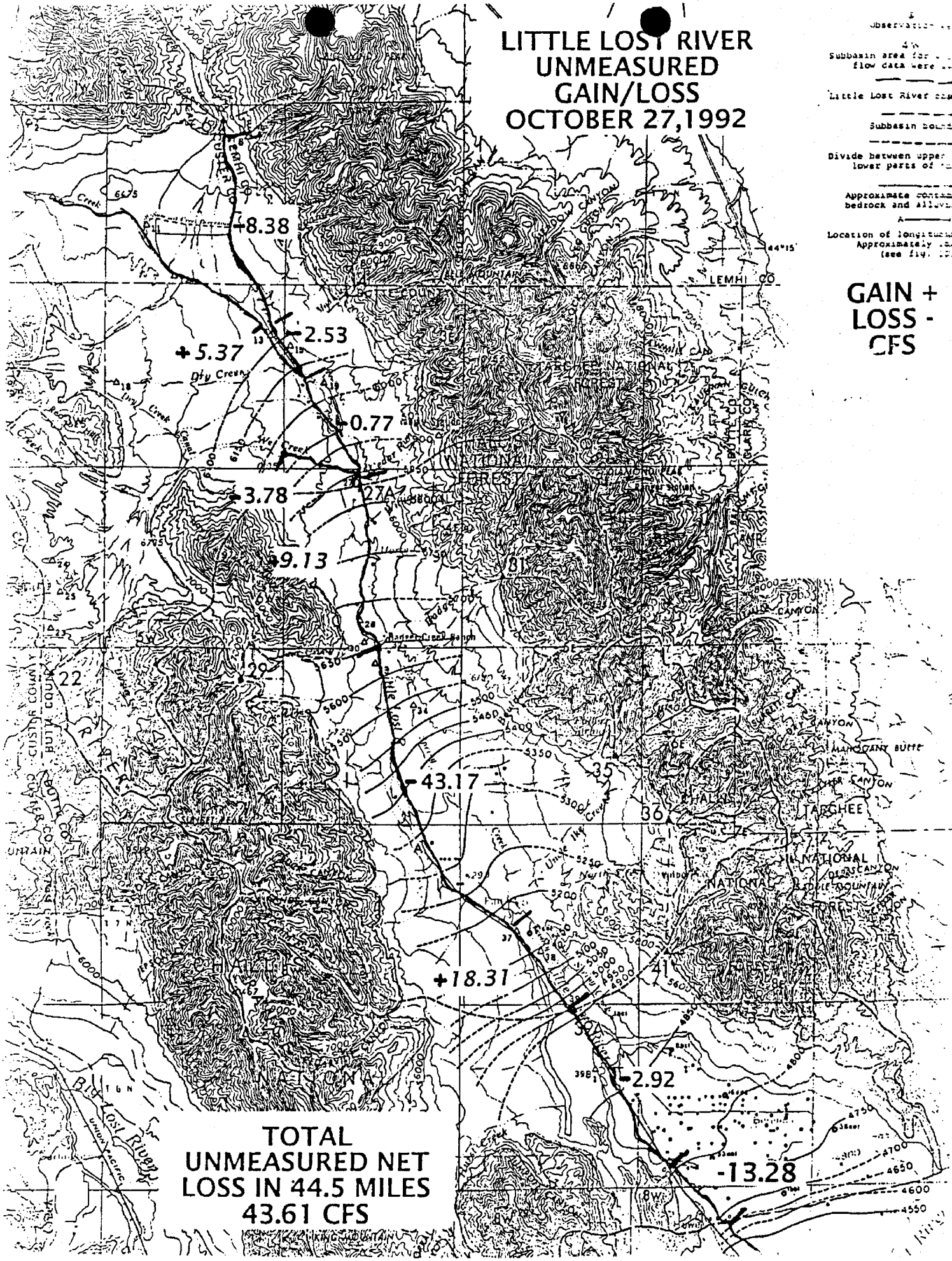
TABLE 1 LITTLE LOST RIVER REACH GAIN ANALYSIS

DISCHARGE MEASURED OCTOBER 27, 1992 C.E. BROCKWAY P.E. AND C.W. ROBISON P.E.
ALL KNOWN MEASUREABLE INFLOW AND DIVERSIONS ACCOUNTED FOR

RIVER MILE STATIONS OF WATER MEASUREMENT SITES
DATA OBTAINED BY DISTANCE WHEEL ON USGS QUAD SHEETS

SCALE 1 INCH=		2000	FT					
SITE	DIST	DISCH	REACH LOSS(-) GAIN(+)	TOTAL REACH INFLOW	TOTAL REACH OUTFLOW	GAIN(+) LOSS(-) %	LOSS OR GAIN/MI	DESCRIPTION
	Miles	cfs	cfs	cfs	cfs		cfs	
28	0.00	11.51						BOB MAYS DIV. NO FLOW PAST THIS DIVERSION
27	0.57	3.60	-13.28	49.27	35.99	-26.95%	-4.57	LEO AND ISHAM DIVERSION
26	2.66	20.88						HARTMAN DIVERSION STRUCTURES
25	2.91	49.27						LITTLE LOST RIVER ABOVE HARTMAN DIV.
24	3.98	3.46						HAWLEY/NORRIS EAST DIVERSION
23	3.98	4.58	-2.92	61.44	58.52	-4.76%	-0.48	HAWLEY/NORRIS WEST DIVERSION
22	6.70	5.34						THREE WELLS INFLOW
21	7.83	1.21						BLAINE DIVERSION
20	8.98	56.10						LITTLE LOST RIVER AT USCE STRUCTURE
19	9.32	5.22	18.31	37.79	56.10	48.45%	4.69	SPRING INFLOW
18	12.88	32.57						LITTLE LOST RIVER BELOW BIG SPRING CREEK
17	12.92	17.37	-43.17	75.74	32.57	-57.00%	-3.74	BIG SPRING CREEK INFLOW AT CONFLUENCE
16	24.41	58.37						LITTLE LOST BELOW DEER AND BADGER CREEK
15	24.43	0.17	9.13	49.24	58.37	18.54%	1.56	DEER CREEK INFLOW
14	24.45	2.76						BADGER CREEK INFLOW
10	30.28	46.31						LITTLE LOST RIVER AT USGS GAGE
13	30.44	17.74						WET CREEK INFLOW

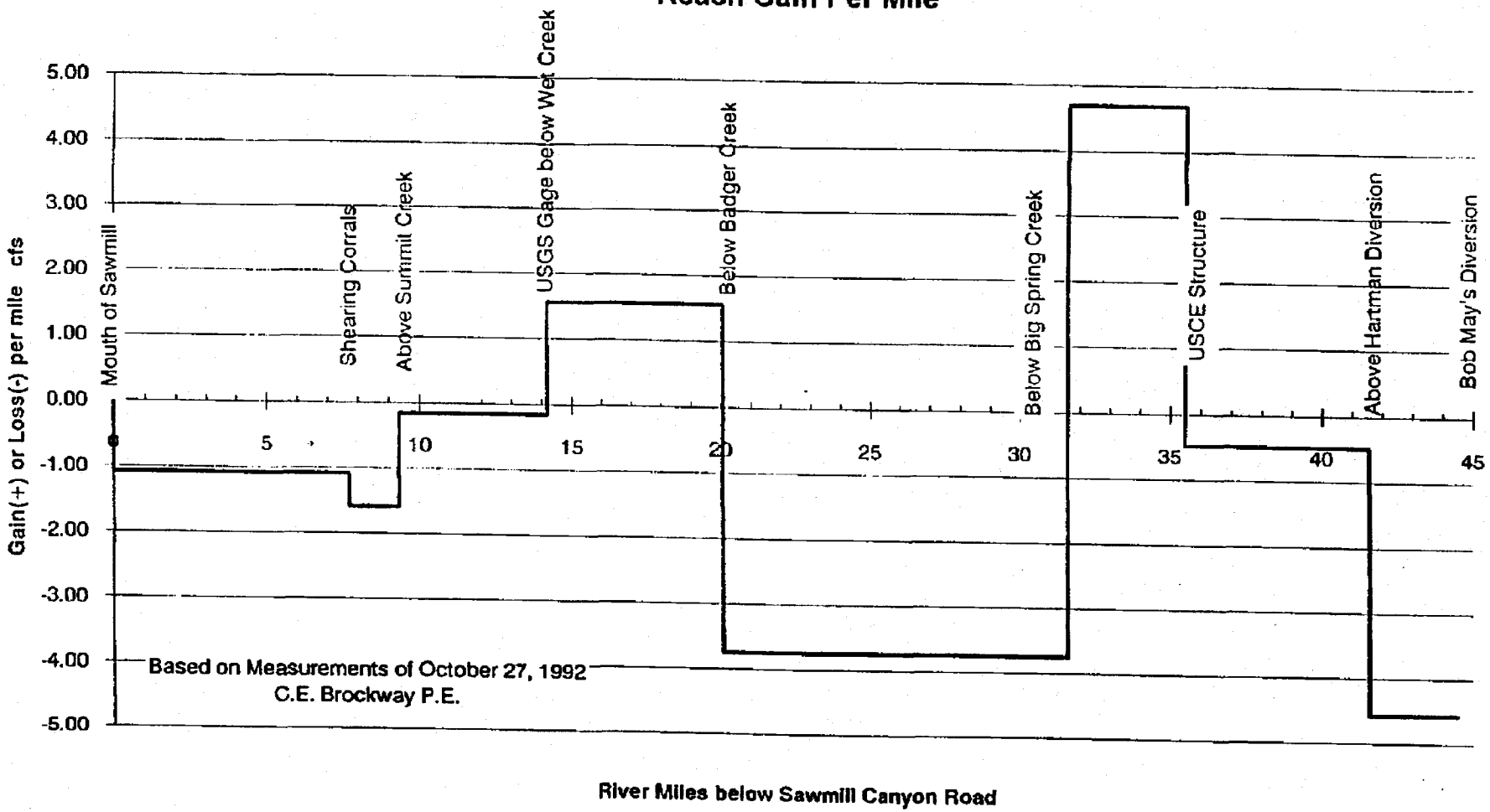
9A	31.99	1.42	-0.77	48.50	47.73	-1.59%	-0.16	DAVE ANDREASON DIVERSION
9	33.30	9.93						SPRING INFLOW(BLACK CREEK)
8	35.13	6.15						SUMMIT CREEK INFLOW
7	35.15	14.68						LITTLE LOST RIVER ABOVE SUMMIT CREEK
6	35.42	3.61	-2.53	17.21	14.68	-14.70%	-1.59	SPRING INFLOW
5	36.16	1.33						PANCHERI HYDRO INFLOW
3	36.74	12.27						LITTLE LOST RIVER @SHEARING CORRALS
2	44.15	5.88	-8.38	20.65	12.27	-40.58%	-1.08	WARM CREEK INFLOW
1	44.47	14.77						LITTLE LOST AT SAWMILL CANYON ROAD
WET CREEK								
13	0.00	17.74						CONFLUENCE WITH LITTLE LOST
	0.84	0.42	-3.78	21.94	18.16	-17.25%	-1.45	RICK PANCHERI DIVERSION
12	2.61	21.94						WET CREEK BELOW HYDRO
11	2.62	10.85						HYDRO PLANT INFLOW
SUMMIT CREEK								
7	0.00	14.68						CONFLUENCE WITH LITTLE LOST
	1.63	0.00	5.37	9.31	14.68	57.68%	3.08	J ANDREASON DIVERSION(LEAK)
4	1.74	9.31						SUMMIT CREEK


LITTLE LOST RIVER
UNMEASURED
GAIN/LOSS
OCTOBER 27,1992
+8.38
-2.53
+5.37
-0.77
-3.78
+9.13
-43.17
+18.31
-2.92
-13.28
GAIN +
LOSS -
CFS
TOTAL
UNMEASURED NET
LOSS IN 44.5 MILES
43.61 CFS

LOSSMILE.XLC

FIGURE 2

Little Lost River
Reach Gain Per Mile



RCHLOSS%.XLC

FIGURE 3

Little Lost River
Percent Reach Gain/lLoss by Sub-reach

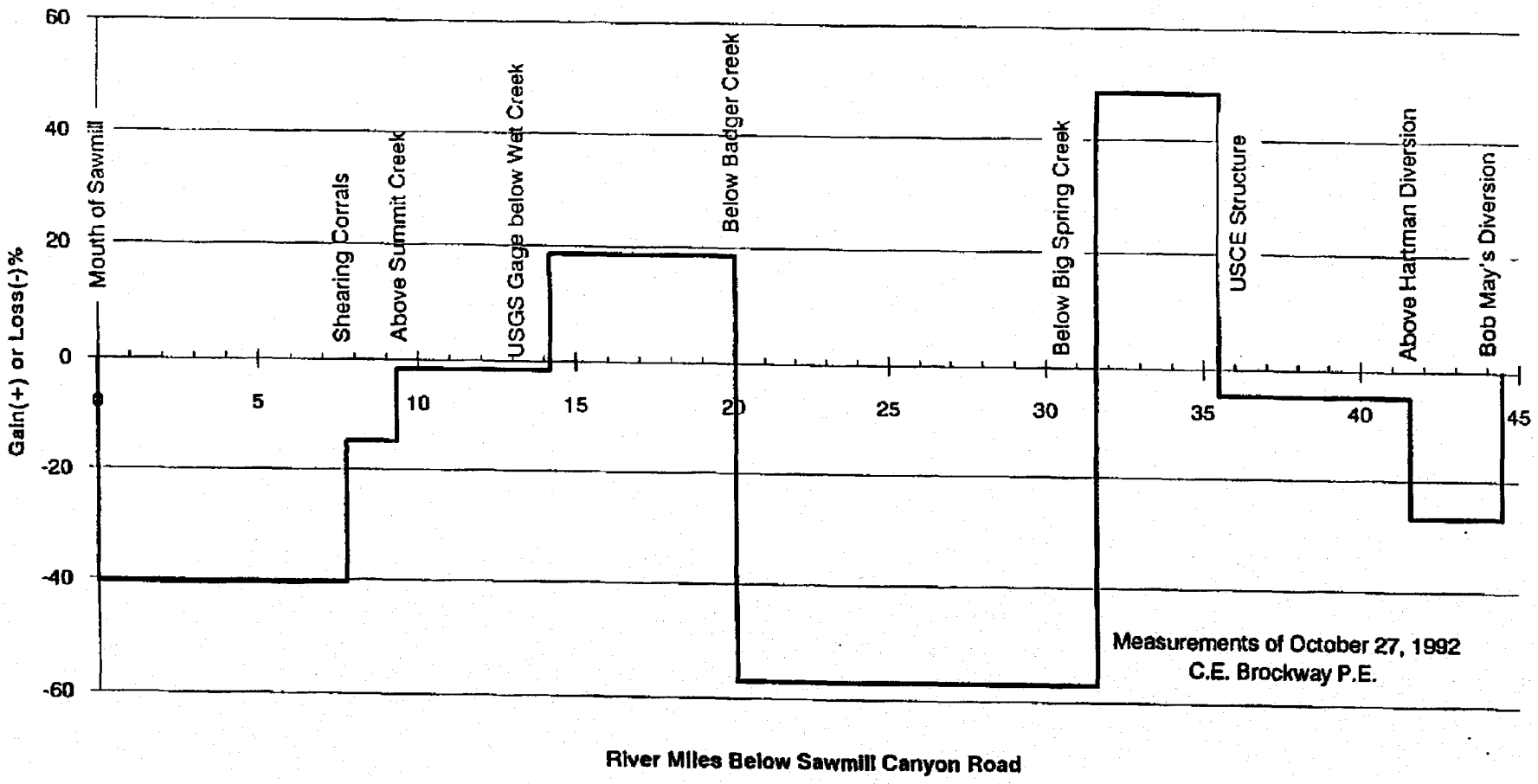
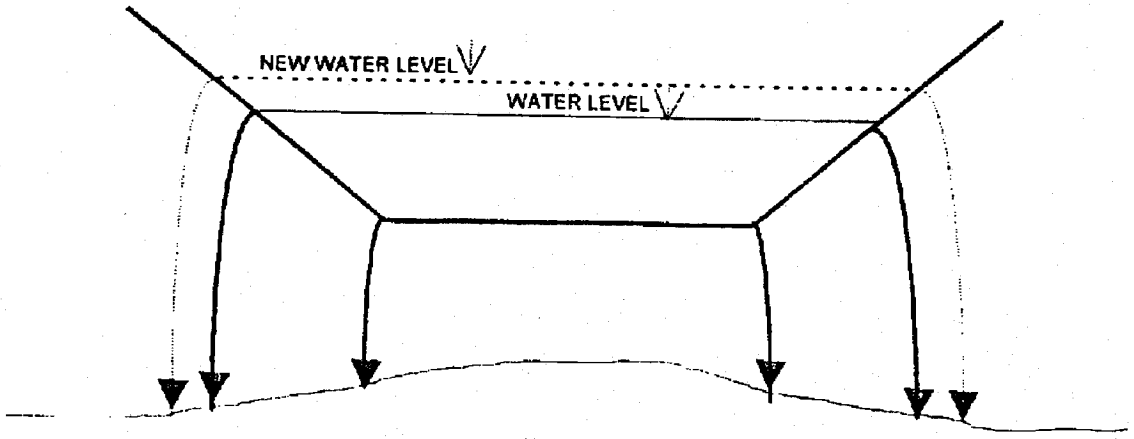
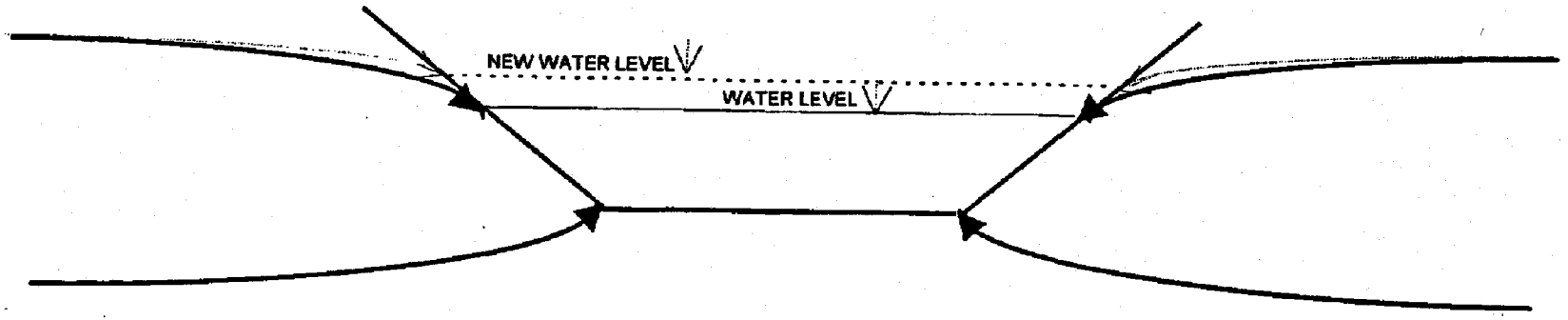


FIGURE 4
SEEPAGE FROM OPEN CHANNELS
LOSING REACH TO GROUND-WATER



ASSUME UNIFORM MEDIA
INCREASED WATER LEVEL CAUSES INCREASED WETTED AREA PLUS INCREASED PRESSURE ON CHANNEL BOTTOM CAUSING INCREASED SEEPAGE

FIGURE 5
SEEPAGE FROM OPEN CHANNELS
GAINING STREAM FROM GROUND-WATER



ASSUME UNIFORM MEDIA
INCREASED WATER LEVEL CAUSES DECREASED INFLOW INTO STREAM
BY DECREASING GRADIENT TOWARD STREAM

FIGURE 6

Little Lost River
Uniform Linear Loss

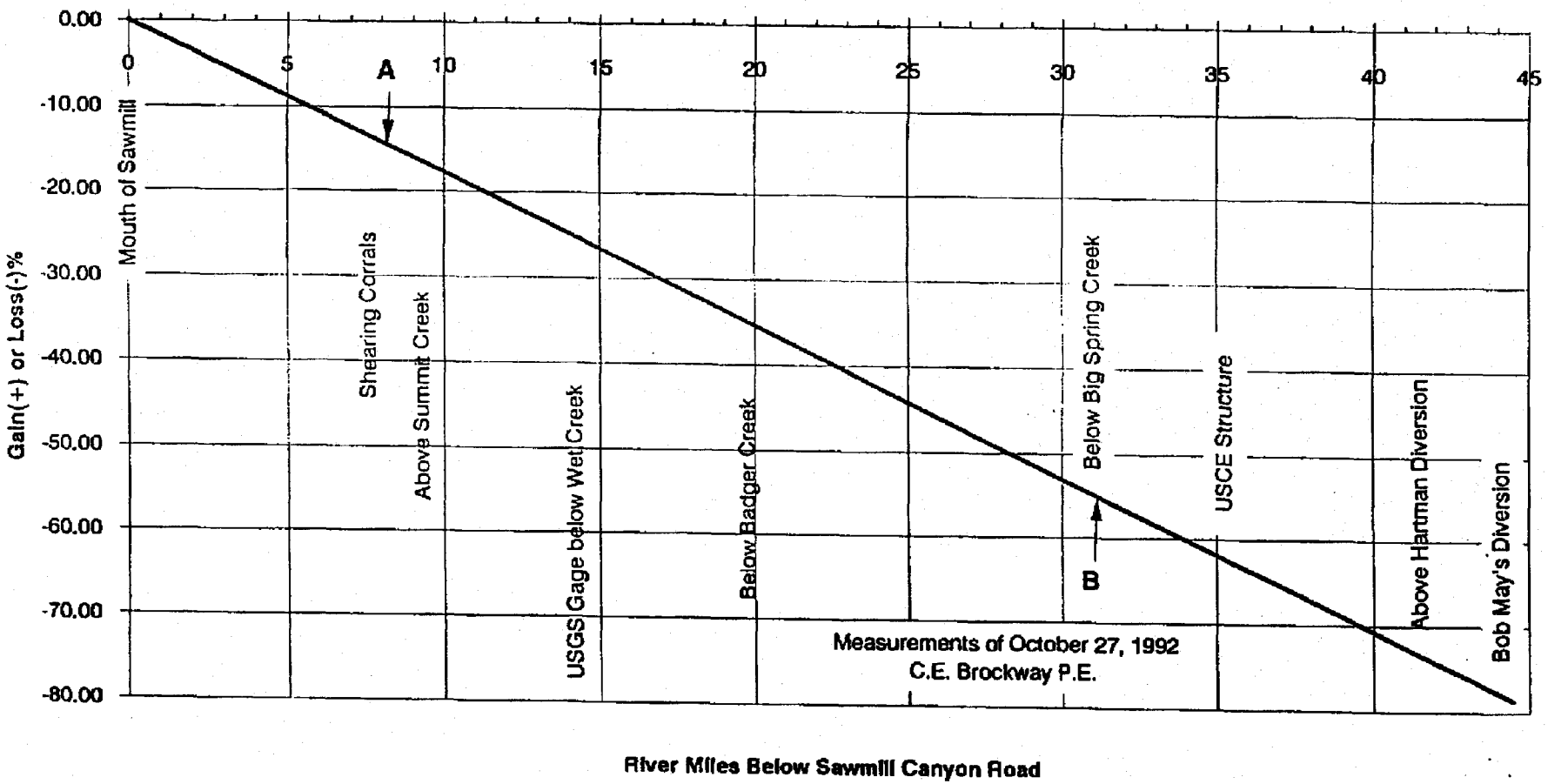


FIGURE 7

Little Lost River
Cumulative Percent Loss

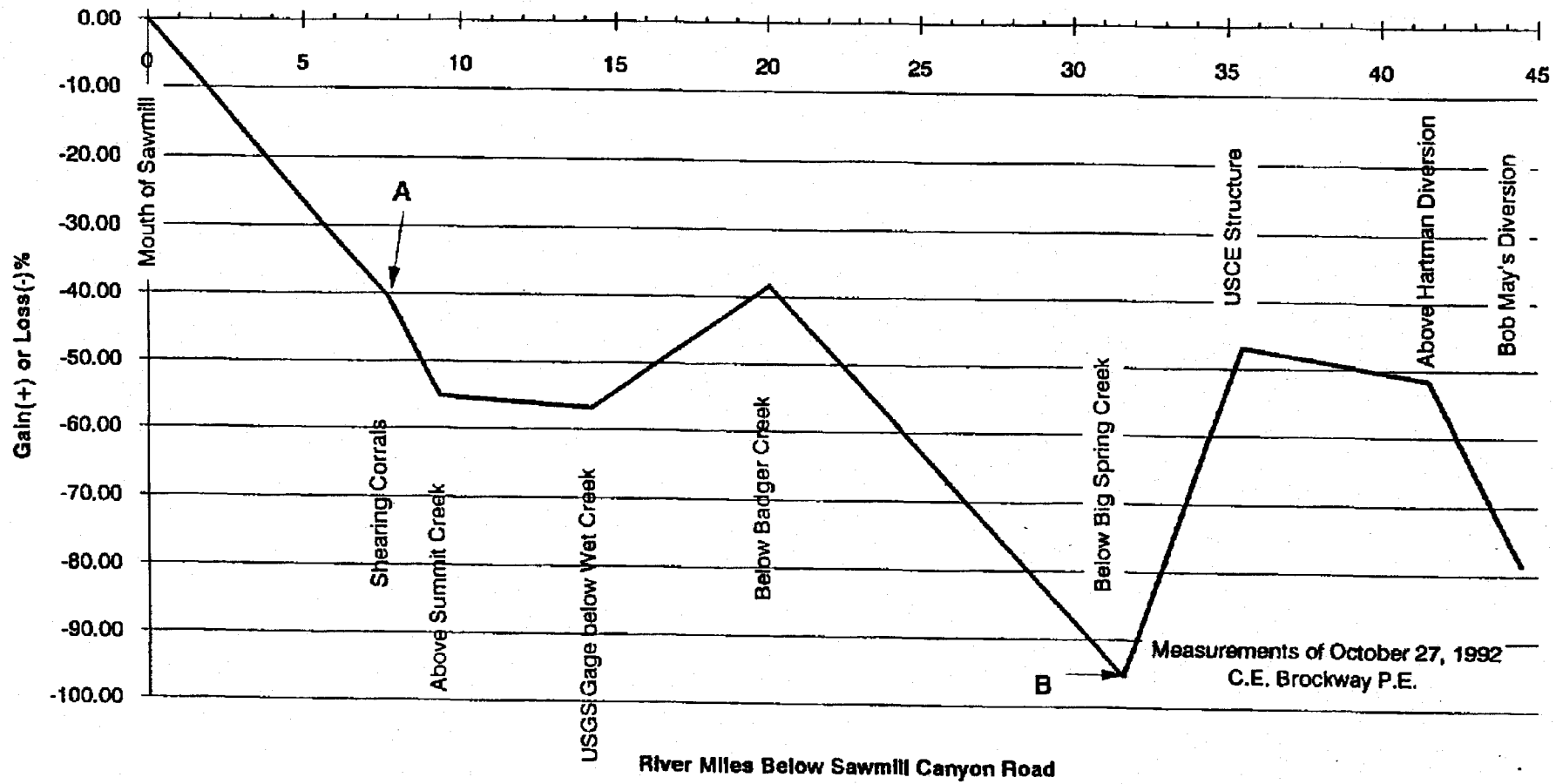
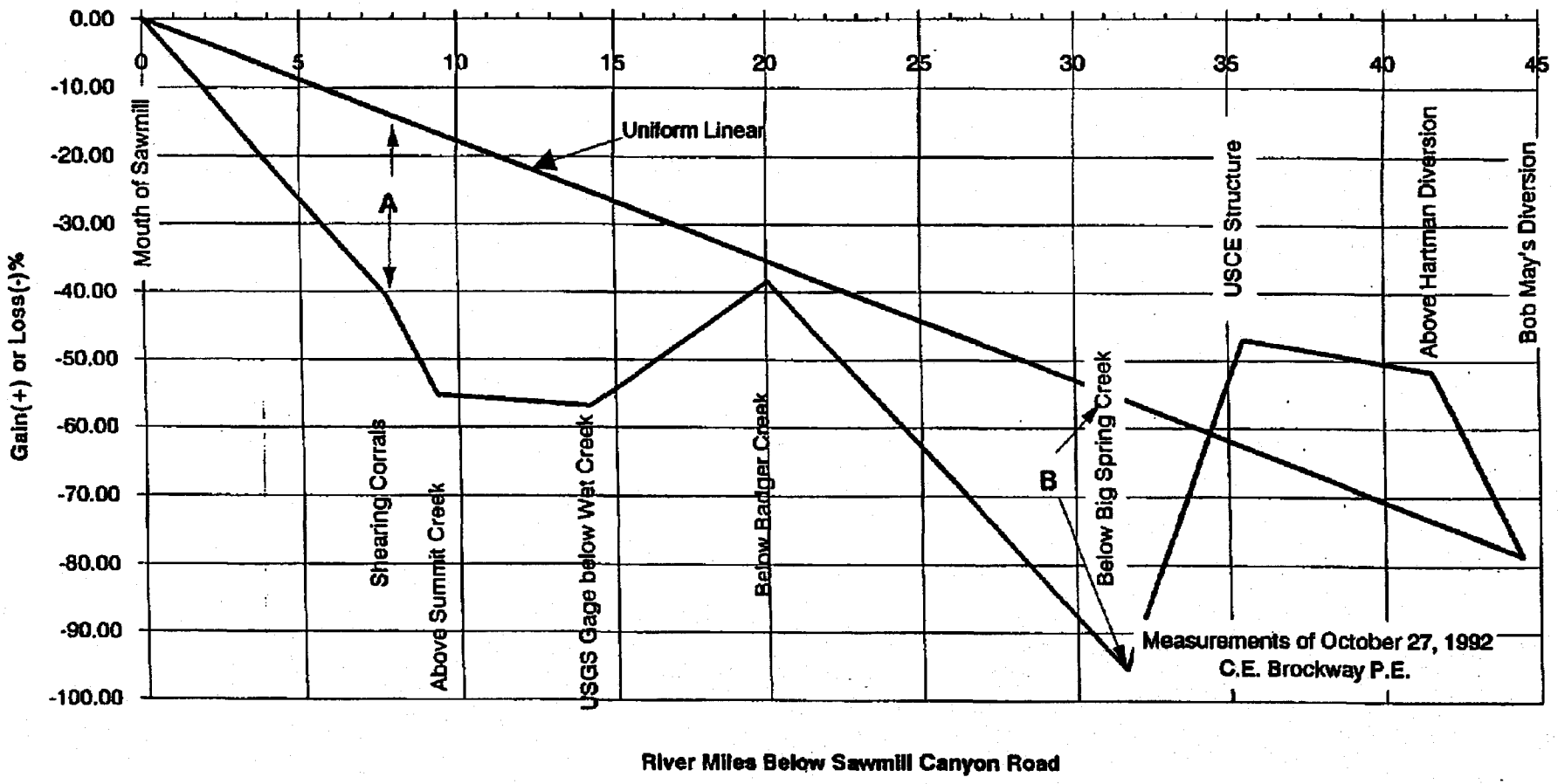
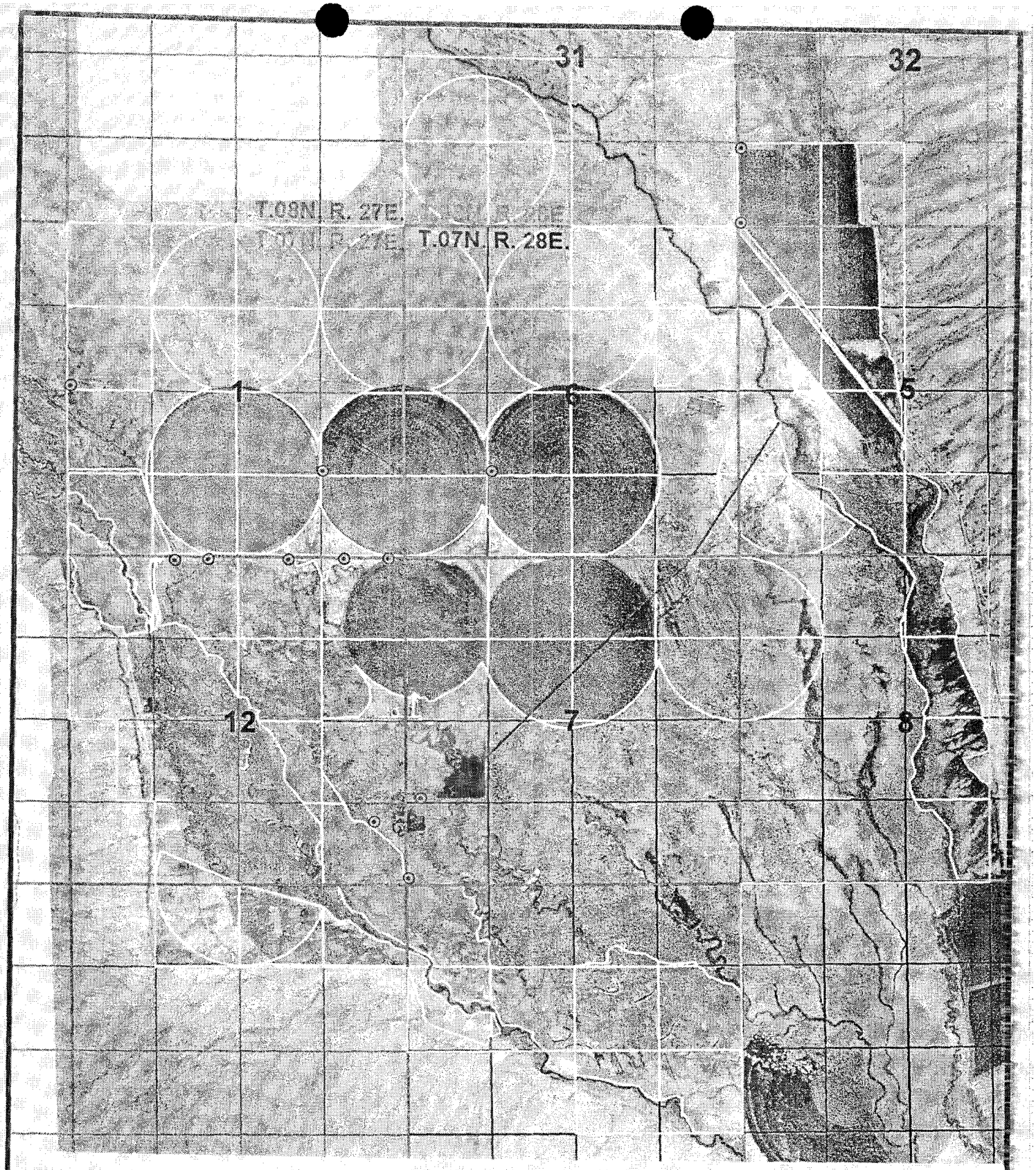


FIGURE 8

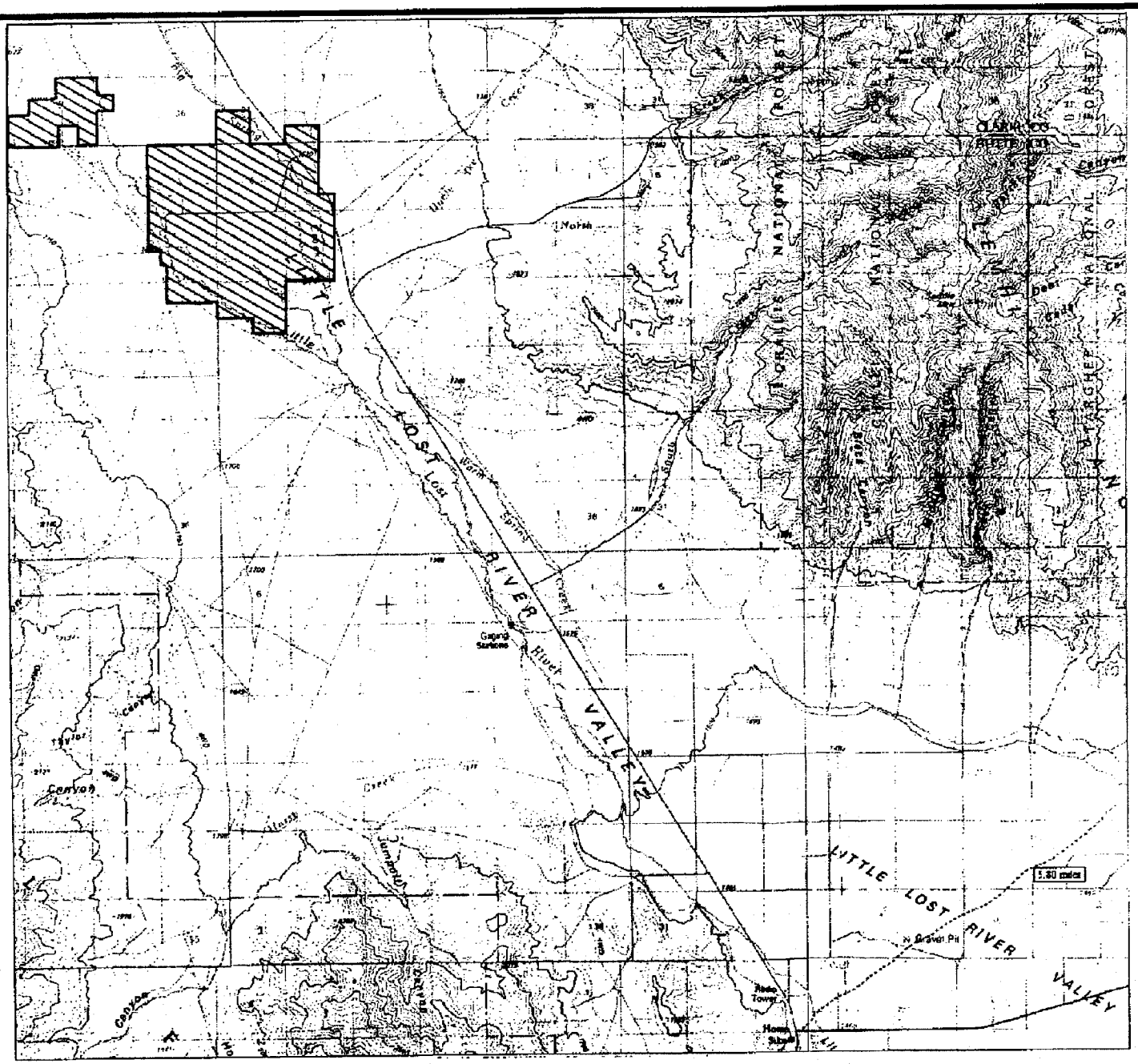
Little Lost River
Comparison of Cumulative and Uniform Linear Percent Loss





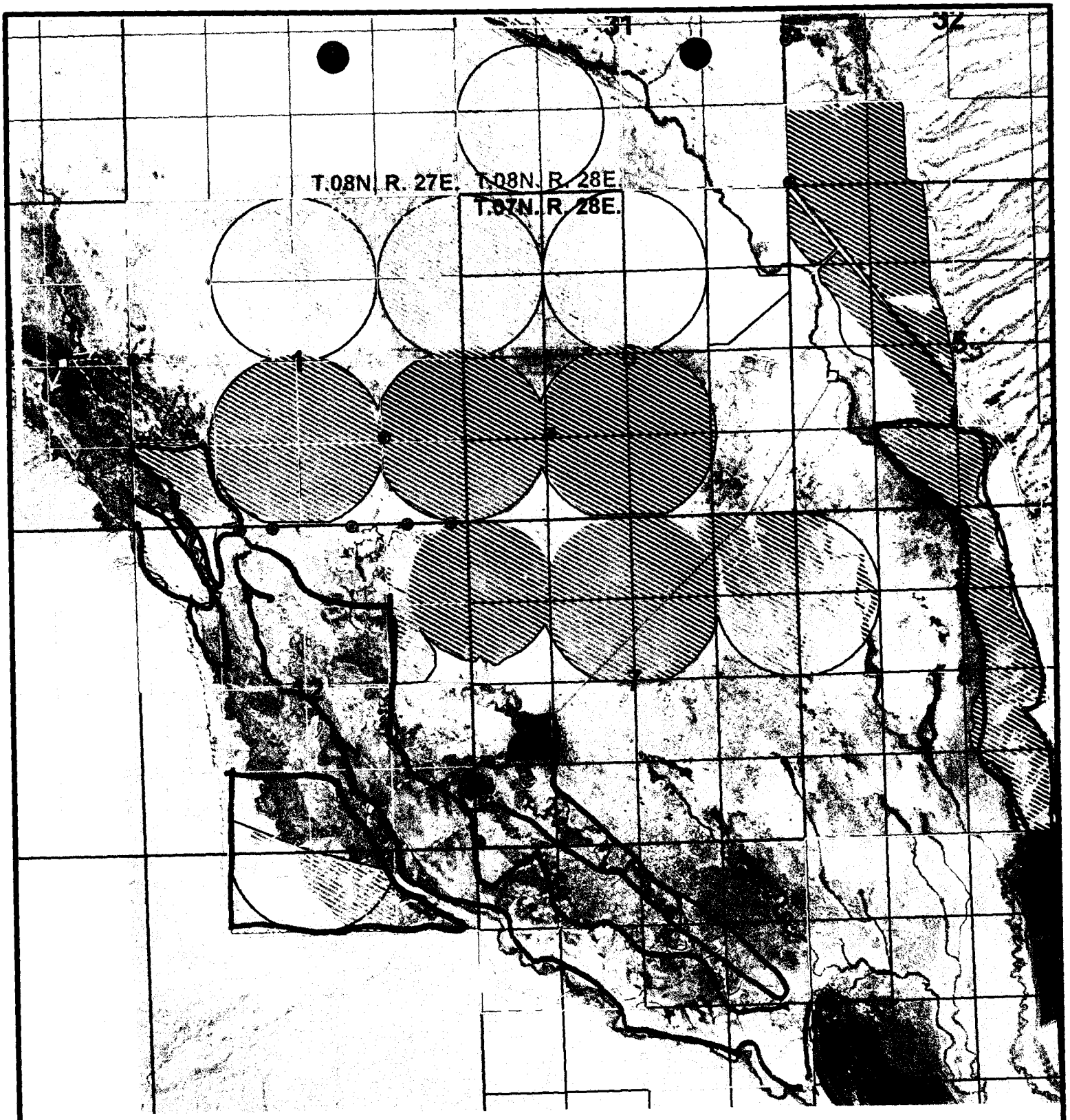
SAGEWILLOW INC. - DUMKE
POTENTIAL IRRIGATION AREAS
AERO-GRAPHICS PHOTO 8/2003

BROCKWAY ENGINEERING, PLLC.
ALR DEC. 12, 2003



DUMKE (SAGEWILLOW)

BROCKWAY ENGINEERING, PLLC.
ALR DEC 12, 2003

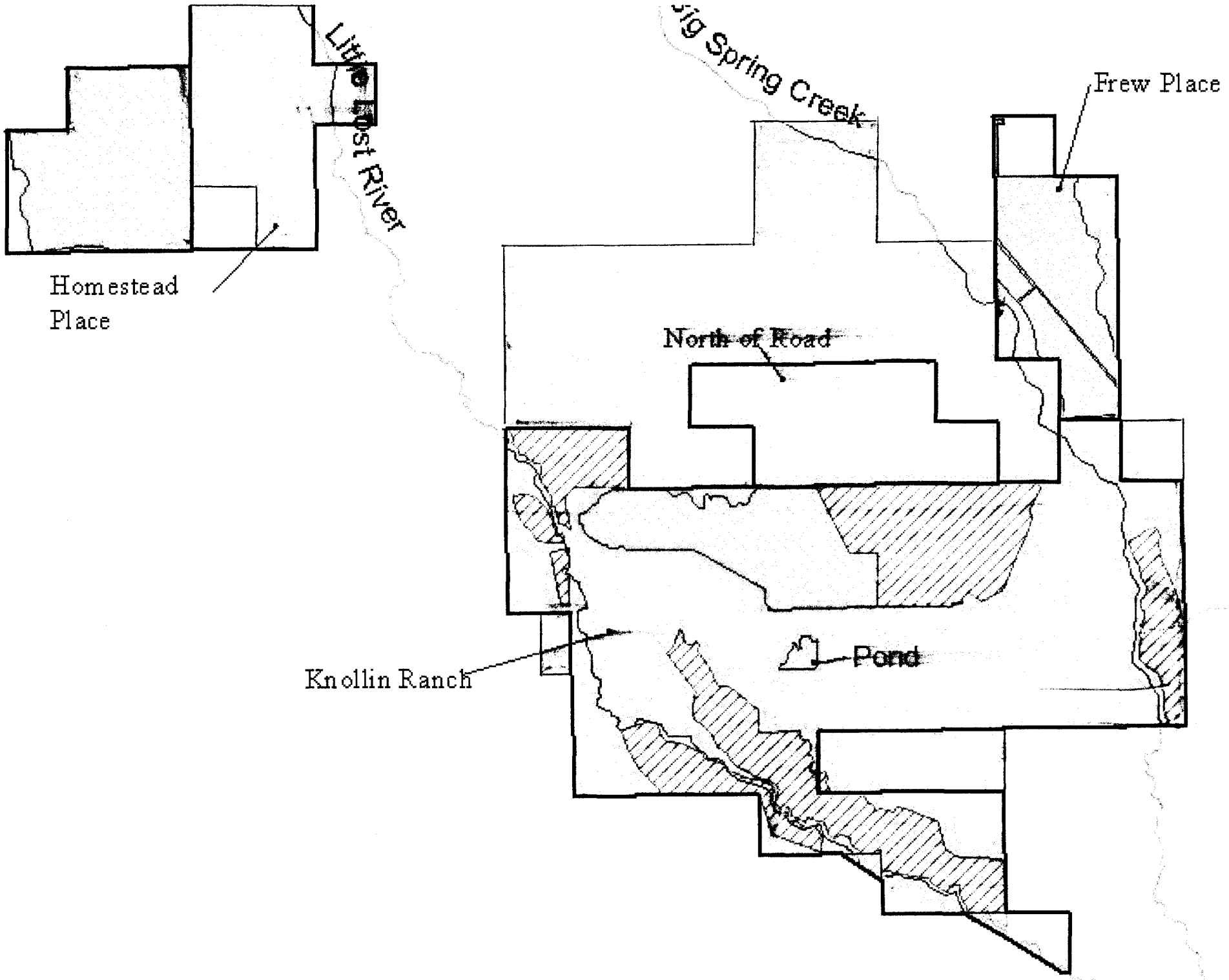


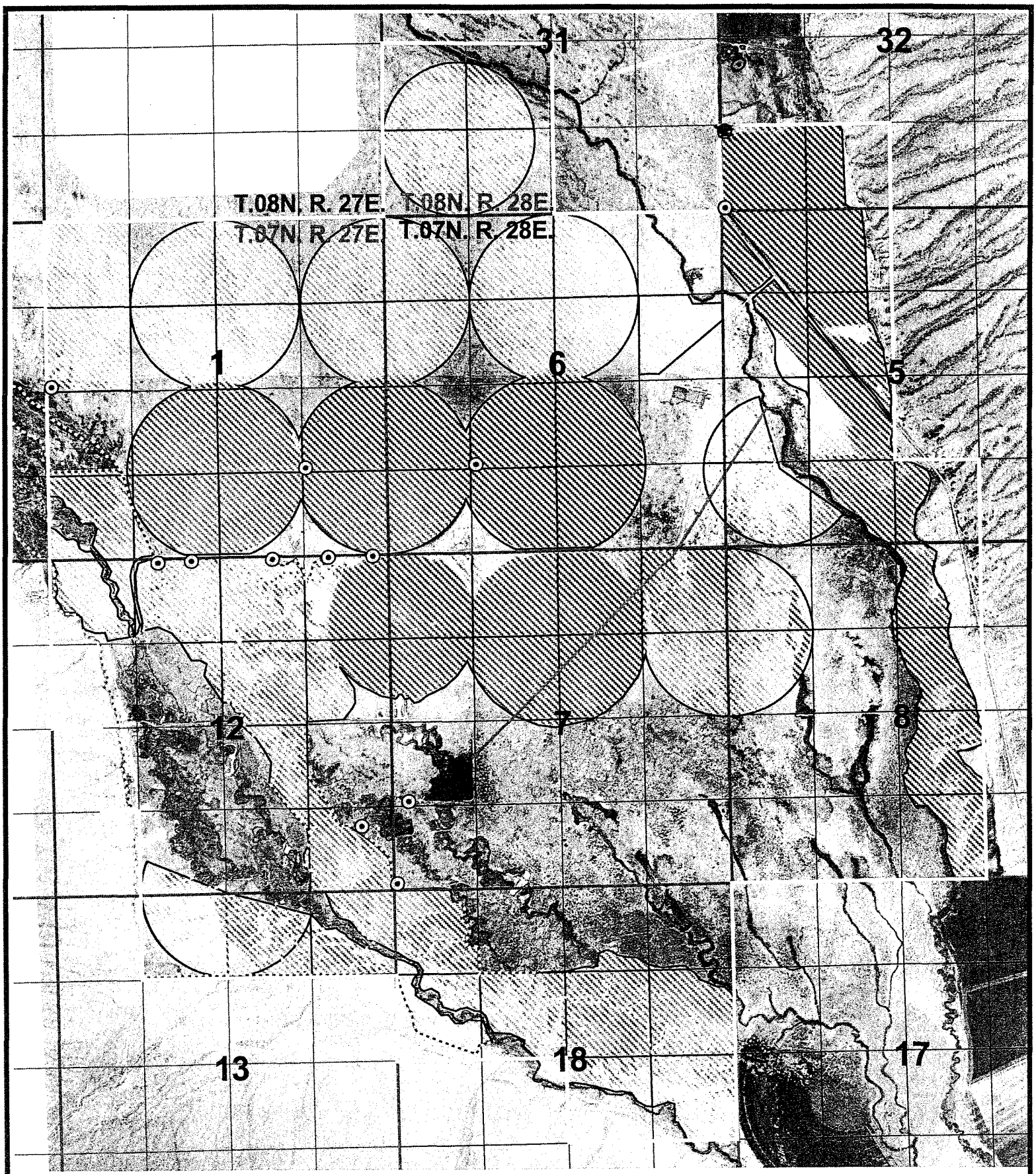
SAGEWILLOW INC. - IRRIGATION PLAN
IRRIGATED AREA 1,816 ACRES
AERO-GRAPHICS PHOTO 8/2003

Diversions.shp
Wells.shp
Property bndry.shp
Sections.shp
Pipeline.shp
Ditches.shp
8n27e.shp
7n28e.shp
7n27e.shp
40s8n28e.shp
1,800 scenario.shp

N

BROCKWAY ENGINEERING, PLLC.
ALR JAN. 12, 2003


Little Lost River
Homestead Place
Frew Place
North of Road
Knollin Ranch
Pond



SAGEWILLOW INC. - DUMKE
IRRIGATED AREA 2,337 SCENARIO
AERIAL PHOTO 8/2003

Wells.shp
Property bndry.shp
Sections.shp
Pipeline.shp
Ditches.shp
2,337 SCENERIO.shp
40s8n28e.shp
8n27e.shp
7n28e.shp
7n27e.shp

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BROCKWAY ENGINEERING, PLLC.
ALR SEP. 10, 2003

PARTIALLY SURVEYED TOWNSHIP 7 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

Protraction Diagram No 23 approved 1/22/1935

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS

RESURVEY			ORIGINAL SURVEY	
TRACT NO.	T.	N.	SEC.	SUBDIVISION
1				

T. 6N (31) Sec. 1, lot 1 (Tract 37) sec. 2, 23, (excl.) reselected & conveyed. All NF surface mgmt by USFS

FOR ORDERS SELECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

CURRENT TO

USE PLATS

PARTIALLY SURVEYED TOWNSHIP 8 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

Protraction Diagram No 89 approved 1/22/1965

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS

RESURVEY	ORIGINAL SURVEY			
TRACT NO.	T.	R.	SEC.	SUBDIVISION

I 010191 Def. P. 157 (Act of Cong. 7/23/1955) completed 2-24-61. All NF surface Mgmt by USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

CURRENT TO	CURRENT TO

USE PLATS

9 N-26 E

9 N-27 E

6 N-26 E

7 N-26 E

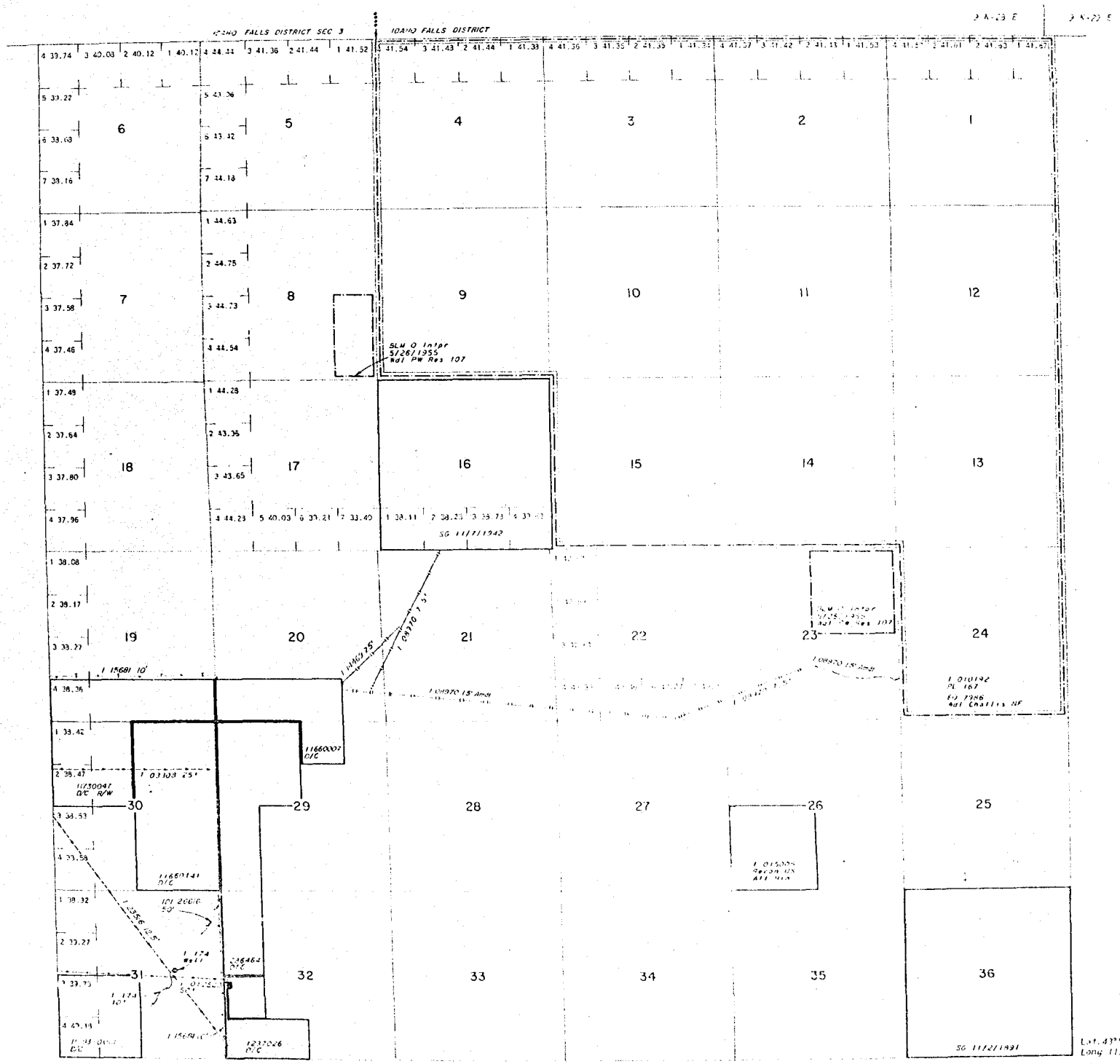
SALMON DISTRICT

IDAHO FALLS DISTRICT

TOWNSHIP 8 28

BUTTE COUNTY 023

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES



MT PLAT

INDEX TO SEGREGATED TRACTS

RESURVEY			ORIGINAL SURVEY	
TRACT NO.	T.	R.	SEC.	SUBDIVISION

I 010131 Det PL 167 (Act of Cong 7/23/1955) completed 2/27/1961 All NF surface Mgmt by USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

CURRENT TO

CURRENT TO

USE PLATS

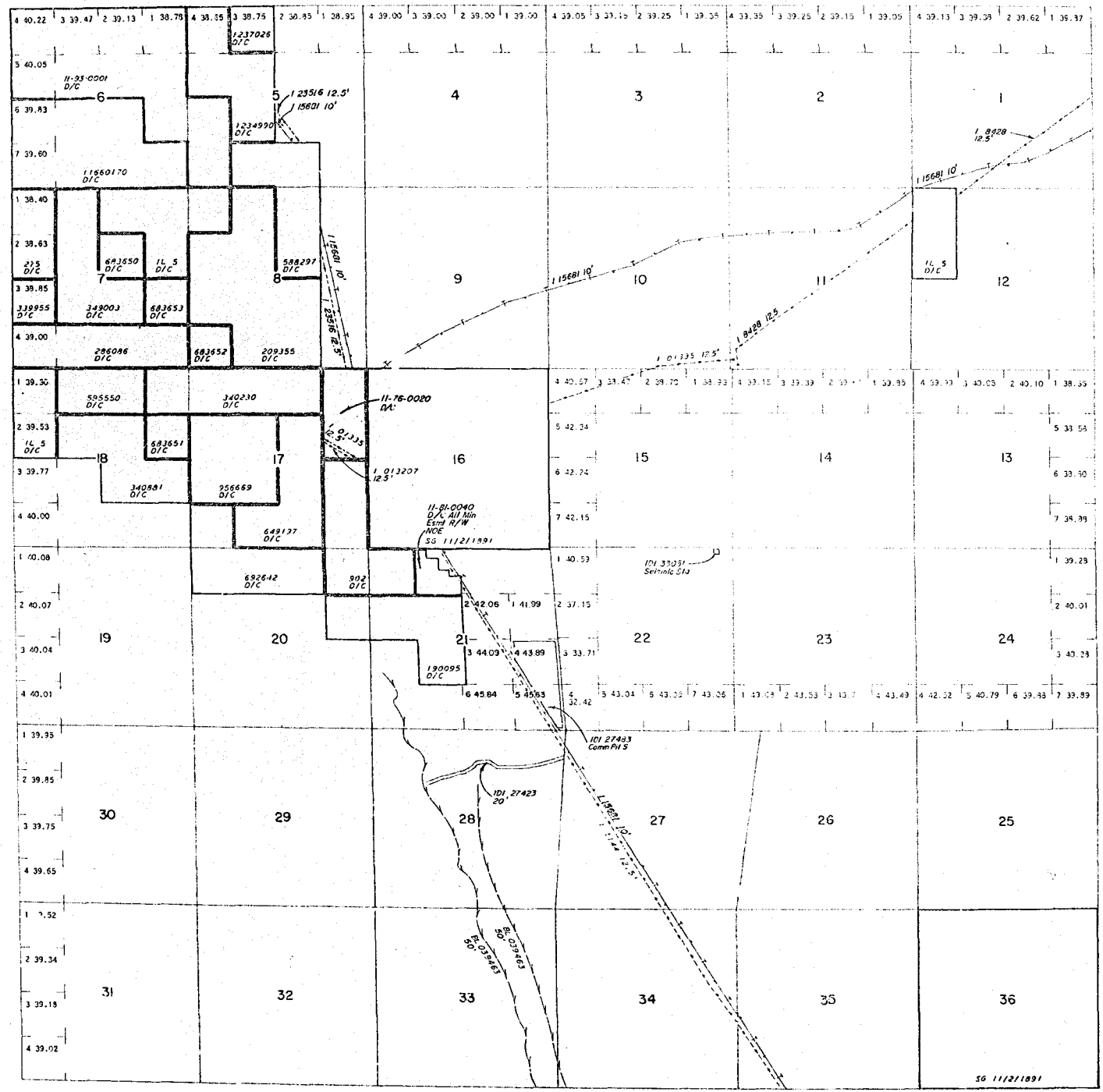
TOWNSHIP 7 NORTH RANGE 28 EAST OF THE BOISE MERIDIAN, IDAHO

BUTTE COUNTY 023

IDAHO FALLS DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT



Lat. 43°53'49" N
Long. 113°03' W

INDEX TO SEGREGATED TRACTS

RESURVEY	ORIGINAL SURVEY			
TRACT NO	T	R	SEC	SUBDIVISION

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

CURRENT TO	CURRENT TO
AUG 2 7 1990	

USE PLATS:

3 10

026671 FILED

MAR 12 1993

A.M. 12:00 P.M.

BUTTE COUNTY RECORDER

CORPORATION WARRANTY DEED

THIS INDENTURE, made this 9 day of ~~February~~ March, 1993, between **PANCHERI, INC.**, an Idaho corporation, Grantor, and **SAGEWILLOW, INC.**, Grantee, whose mailing address is 2416 Plaza Del Grande, Las Vegas, Nevada 89102.

WITNESSETH, That Grantor having hereunto authorized by resolution of its Board of Directors, for and in consideration of the sum of Ten Dollars ($10.00), lawful money of the United States of America, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, and to its heirs and assigns forever, all the following described real estate situated in Howe, county of Butte, State of Idaho, to wit:

Township 7 North, Range 27, E.B.M., Butte County, Idaho
Section 1: Lots 1-4 inclusive, and $S\frac{1}{2}N\frac{1}{2}$

Township 7 North, Range 28, E.B.M., Butte County, Idaho
Section 5: $W\frac{1}{2}SW\frac{1}{4}$
Section 6: Lots 1-5 inclusive, $S\frac{1}{2}$~~NW¼~~ NE¼, $SE\frac{1}{4}NW\frac{1}{4}$ & $NE\frac{1}{4}SE\frac{1}{4}$.

Township 8 North, Range 28, E.B.M., Butte County, Idaho
Section 31: Lots 3 and 4 and $E\frac{1}{2}SW\frac{1}{4}$

ALL SUBJECT TO highway right-of-ways, easements for utilities, real property taxes and irrigation assessments for 1993 and subsequent years, reservations and exceptions in state deeds and federal patents, and building and zoning laws, ordinances, and regulations of governmental agencies.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate

right, title and interest in and to the said property, as well in law as in equity, of Grantor.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto Grantee, and to its heirs and assigns forever. And the Grantor, and its successors, the said premises in the quiet and peaceable possession of the Grantee heirs and assigns against Grantor, and its successors, and against all and every person and persons whomsoever, lawfully claiming or to claim to same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The Grantor has caused its corporate name to be hereto subscribed by its President and its corporate seal to be affixed by its Secretary in pursuance to said resolution the day and year first above written.

PANCHERI, INC.

By: _____
Its President

STATE OF IDAHO)
) ss.
County of Bingham)

On this 9 day of ~~February~~ March, 1993, before me, the undersigned, a notary public in and for said State of Idaho, personally appeared Jerry Pancheri known to me to be the President of PANCHERI, INC. the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

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

ANITA McMURTREY
NOTARY
(SEAL)
PUBLIC
STATE OF IDAHO

Anita McMurtrey
Notary Public for Idaho
Residing at: Blackfoot
My Commission Expires: 5/20/94

FURNISHED BY FIRST AMERICAN TITLE COMPANY
FORMERLY THE BINGHAM TITLE & TRUST CO.

WARRANTY DEED

For Value Received VENICE HAWLEY, a widow, and VENICE HAWLEY as personal representative of the estate of Lawrence R. Hawley aka L. R. Hawley aka "Slim" Hawley, whose full name was Lawrence Roy Hawley

the grantor s , do hereby grant, bargain, sell, and convey unto SAGEWILLOW, INC., a Nevada corporation aurhorized to do business in Idaho,

the grantee , whose current address is

the following described premises, to-wit:

Those lands in Butte County, Idaho, described on the attached Exhibit "A".

SUBJECT TO taxes and assessments for the year 1989, to easements, roads and rights of way, to building and zoning ordinances and use regulations and restrictions, to reservations in federal patents and state deeds, and to any liens suffered or created by the grantees.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee , its successors ~~heirs~~ and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee , that they are the owners in fee simple of said premises; that said premises are free from all incumbrances except as hereinabove set forth and that t he y will warrant and defend the same from all lawful claims whatsoever.
Dated:

Venice Hawley
Venice Hawley, a widow

Venice Hawley
Venice Hawley as personal representative of the estate of Lawrence R. Hawley aka L. R. Hawley aka "Slim" Hawley, whose full name was Lawrence Roy Hawley.

STATE OF IDAHO, COUNTY OF Bingham
On this 26th day of April , 1989, before me, a notary public in and for said State, personally appeared Venice Hawley, a widow,

known to me to be the person who se name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Robert M Kerr
Notary Public
Residing at Blackfoot , Idaho
Comm. Expires 1/19/92

STATE OF IDAHO, COUNTY OF BINGHAM
On this 26th day of April , 1989, before me, a Notary Public in and for said State, personally appeared Venice Hawley, known or identified to me to be the person whose name is subscribed to the within instrument as personal representative of the estate of Lawrence R. Hawley aka L. R. Hawley aka "Slim" Hawley, whose full name was Lawrence Roy Hawley, deceased, and acknowledged to me that she executed the same as such personal representative.

Robert M Kerr
Notary Public
Residing at Blackfoot , Idaho
Commission expires 1/19/92

INSTRUMENT No.

Exhibit "A"

The property referred to is situated in the State of Idaho, County of Butte and is described as follows:

In Township 7 North, Range 27 East of the Boise Meridian:
Section 1: The South half.
Section 12: The North half; the East half of the Southwest Quarter; the Southeast Quarter; and the East half of the Northwest Quarter of the Southwest Quarter.
Section 13: The North half of the Northeast Quarter and the Northeast Quarter of the Northwest Quarter.

In Township 7 North, Range 28 East of the Boise Meridian:
Section 5: The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter.
Section 6: Lots six and seven (W2SW4); the East half of the Southwest Quarter; the West half of the Southeast Quarter; and the Southeast Quarter of the Southeast Quarter.
Section 7: All.
Section 8: The West half of the East half; and the West half.
Section 18: The North half; and the North half of the Southeast Quarter.

In Township 8 North, Range 27 East of the Boise Meridian:
Section 34: The east half of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter; the Southeast Quarter of the Northwest Quarter; the Southwest Quarter; the West half of the Southeast Quarter; and the Northeast Quarter of the Southeast Quarter.
Section 35: The West half of the West half; the Southeast Quarter of the Northwest Quarter.

Together with all water, water rights, ditches, ditch rights of way, wells, pumps, motors, panels, and irrigation equipment and structures, all appurtenances and easements, and all grazing privileges and permits with the Bureau of Land Management and the U.S. Forest Service in so far as they are applicable to the above described property and livestock thereon.

SUPPLEMENTAL DIRECTOR'S REPORT REGARDING SUBCASE NO. 33-69 et. al

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
David R. Tuthill Jr., Adjudication Bureau Chief

October 6, 2003

I. INTRODUCTION

The Director of the Idaho Department of Water Resources ("IDWR" or "the Department") submits this Supplemental Director's Report regarding subcase nos. 33-69 et al. in accordance with Idaho Code § 42-1412(4) and Administrative Order I. This report is also submitted in response to Special Master Bilyeu's *Amended Trial Scheduling Order* dated July 22, 2003, setting forth the deadline of September 30, 2003 for a 706 Report from IDWR.[1] This report sets forth the basis of the Department's recommendation for water right nos. 33-69 et al. and was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill, Jr., Adjudication Bureau Chief for IDWR. That same order also requests that the Department submit Amended Director's Reports for subcase nos. 33-69 et al. on September 30, 2003. Thus, filed on September 30, 2003, are Amended Directors Reports, or Director's Reports, whichever the case may be, for all of the subcases that are the subject of this Report.

Ernest Carlsen, Water Rights Supervisor, IDWR, Eastern Region Office in Idaho Falls has knowledge of the information contained in this report.

There are 33 subcases discussed in this report and all of them have objections except 33-11003 which was reported to the SRBA Court for the first time in July, 2003. Attached hereto is Table 1 that summarizes the status of each subcase in the SRBA. The United States Forest Service is the only objector to water right nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33- 81, and 33-82. The Forest Service also has an objection filed to water right no. 33-2057F. The Forest Service's objections relate only to a typographical error in the place of use description. That error has been corrected in the Amended Director's Reports for

[1] By permission of the Court and the parties, IDWR is filing this report one day after the deadline.

these subcases that were filed on September 30, 2003. These subcases also share common remarks with the other subcases that are objected to by Sagewillow, Inc. ("Sagewillow").[2] The common remarks have also been corrected to account for the Amended Director's Reports on any related water rights.

Sagewillow has objected to the recommendations for subcase nos. 33-2007, 33-2008, 33-2057A, 33-2057B, 33-2057C, 33-2057D, 33-2057E, 33-2057F, 33-2083A, 33-2083B, 33-2083C, 33-2083D, 33-2083E, 33-2083F, 33-2086A, 33-2086B, 33-2090, 33-2091, 33-2133, and 33-7018. Mays Land and Livestock and Blaine County Canal Co. filed responses to all of Sagewillow's objections except 33-2133.[3] The only subcase without an objection at this time is subcase no. 33-11003; however, the Department has filed an Amended Director's Report for this subcase in order to make the place of use description compatible with related water rights.

II. PROCEDURAL BACKGROUND

In October 1990, Sagewillow filed an application to transfer the place of use and point of diversion of the ground water right from the "Homestead Place" to the "North of Road" place.[4] Nobody protested the transfer and the Department approved the transfer in October of 1992 ("1992 transfer"). Attached hereto is Sagewillow Diagram 1 that illustrates the various properties. The Diagram shows the recommended places of use for the various water rights and also notes the location of the water rights not recommended by the Department in parentheses

[2] Sagewillow, Inc. is the official name of the entity on file with the Secretary of State's office. Although the objections filed in the SRBA are under Sage Willow, Inc. this report will refer to Sagewillow as one word.

[3] The United States Bureau of Land Management filed an objection to 33-2133 but that objection was resolved with the filing of the Amended Director's Report for that subcase on 2/2/2001. Thus, BLM is no longer a party to this subcase.

[4] Note, the Supreme Court's decision *in Sagewillow v. Idaho Dept. of Water Resources*, 138 Idaho 831, 70 P.3d 669 (2003) erroneously states that the transfer was intended to transfer water from the "Bird Ranch" to "North of Road" place. Id. at 836, 70 P.3d at 673.

underneath the claimed property location. Diagram 1 also contains the locations of the points of diversion for the surface water rights and the locations of certain wells discussed in this report.

Two years later in 1994, Sagewillow filed seven more transfer applications with the Department of Water Resources seeking to change the place of use for its six ground water rights ("1994 transfers"). James Mays, Mays Land and Livestock, and the Blaine County Canal Company filed protests to the transfers claiming that the transfers would expand Sagewillow's surface water rights and that the ground water rights had been forfeited by non-use. Following the hearing, the Department found that the water rights appurtenant to the "North of Road" place and the "Homestead Place" had been forfeited and that water rights appurtenant to the "Knollin" and "Bird Ranches" and the "Frew Place" had been partially forfeited. Sagewillow was allowed to irrigate only 1,412 acres. Furthermore, the Department voided the transfer it had originally approved in 1992.

Sagewillow appealed the Department's decision to the Seventh Judicial District Court, which affirmed the Department's Order. Sagewillow then appealed the matter to the Supreme Court. The Supreme Court held that the Snake River Basin Adjudication (SRBA) District Court had exclusive jurisdiction to review the Department's decision, thus, vacating the Seventh Judicial District Court's decision based on lack of jurisdiction. *Sagewillow, Inc. v. Idaho Dept. of Water Resources*, 135 Idaho 24, 13 P.3d 855 (2000). The case was then remanded back to the SRBA District Court.

The Legislature enacted Idaho Code § 42-1401D in response to the Supreme Court's action; this statute prohibits any Department actions under the Idaho Administrative Procedure Act from being heard in the SRBA District Court. The SRBA District Court then transferred the

case back to the Seventh Judicial District Court and without further hearing, the District Court reissued its prior decision. Sagewillow then appealed again to the Supreme Court.

One of the key issues on appeal was whether or not the Department of Water Resources correctly applied the doctrine of resumption of use. The Department's conclusion of law regarding resumption stated:

> 17. Other users are not required to assert a specific claim to the water rights or water represented by rights held by the user attempting to resume his use. The existence or establishment of a junior water right is sufficient to claim the water. The resumption doctrine cannot restore portions of water rights forfeited by Sage Willow's [sic] predecessor in interest to the detriment of other water right holders.

Amended Final Order, In the Matter of Application for Transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226, 4227 in the Name of Sagewillow, Inc., p. 19 (April 8, 1996).

The Supreme Court found that the Department's conclusion was incorrect. The Supreme Court clarified the requirements to be met under the resumption of use doctrine, stating that to resume a water right the resumption needed to occur:

1. Prior to the time others "initiated their appropriation," citing *Zezi v. Lightfoot*, 57 Idaho 707, 68 P.2d 50 (1937);
2. In the case of ground water, the water user must have retaken possession of his wells and canals prior to the "initiation of any right therein by others," citing *Wagoner v. Jeffery*, 66 Idaho 455, 162 P.2d 400, (1945); and,
3. Be upon the land to which the water right was appurtenant, citing *McCray v. Rosenkrance*, 135 Idaho 509, 20 P.3rd 693, (2001).

Sagewillow at 842, 70 P.3d at 680.

A key to determine whether other water users had initiated or claimed a right to the water is whether the stream is fully appropriated. In a previous Supreme Court decision, the Supreme Court held, "a person making a subsequent appropriation will be injured by resumption of the abandoned or forfeited water right. If a senior right has been abandoned or forfeited, the priority of the original appropriator is lost and the junior appropriators move up the ladder of priority."

Jenkins v. State, Dept. of Water Resources, 103 Idaho 384, 387-88, 647 P.2d 1256, 1259-60 (1982). The Supreme Court clarified this statement in *Sagewillow* and expressly held "that the mere existence of a junior appropriator, however, is not sufficient to show that the junior appropriator has made a claim of right to the water not used by the senior appropriator." *Sagewillow* at 836, P.3d at 676. Thus, the Department's conclusion that the mere existence of a junior water right user was enough to defeat resumption was incorrect. Rather, a showing that the junior water user actually relied upon the water right prior to the resumption of use and put the water to beneficial use must be shown. Id.

The Supreme Court in *Sagewillow* discussed *Jenkins* further, noting that there was an express finding in that case that the watercourse was fully appropriated. The Court said that "the junior appropriators would be harmed if there would not be sufficient water to fill their water rights due to the senior appropriator being permitted to resume his use." Id. The Court noted that this would typically occur when the watercourse was fully appropriated. If the watercourse was fully appropriated and the junior appropriators were using water to the extent that it was available, then according to the Supreme Court's decision in *Sagewillow*, the junior appropriator would have made a claim to the water not used by the senior appropriator.

The Supreme Court remanded the case back to the Department because the Department did not make any finding that after the statutory period of non-use and before resumption of use by Sagewillow that any junior appropriator used water that was available because of continued non-use of the water by Sagewillow.

III. LEGAL PARAMETERS USED FOR THE ATTACHED DIRECTOR'S REPORTS

When filing these Director's Reports, the Department considered how the water rights existed in 1987. The Department did not take into consideration the 1992 transfer that was found

by the Supreme Court to be properly voided[5] and the seven 1994 transfers that have since been withdrawn by Sagewillow. In addition, the Department considered the following legal requirements:

1. Is there clear and convincing evidence that the water user failed to use and apply the water to a beneficial use for a continuous 5-year period? I.C. § 42-222.
2. Is a transfer required under I.C. § 42-222? Did the change in the point of diversion or place of use of the water right occur prior to 1987?
3. If a resumption of the water right occurred, did it occur upon the same land to which the water right was originally appurtenant?
4. If a resumption of the water right occurred, did it occur prior to any claim of right by a third party to the water not used by the senior appropriator?

IV. DISCUSSION

This section of the report will discuss the Department's basis for its recommendations contained in the Director's Reports and Amended Director's Reports filed on September 30, 2003.

A. Water Right Nos. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, and 33-82

These water rights are used on the "Knollin Ranch." These are commonly referred to as the "high water rights." The United States Forest Service filed the only objections to the Department's original recommendations for these water rights; there was a typographical error in the place of use legal description placing these water rights on Forest Service property. This error has been corrected on these water rights and thus, the USFS's objections should be resolved with the filing of the Amended Director's Reports. The Amended Director's Reports for these water rights also incorporate appropriate combined use remarks to account for any related overlapping water rights.

[5] See *Sagewillow, Inc. v. IDWR*, 138 Idaho at 671, 70 P.3d at 683.

1. Background. These water rights were decreed in *Blaine County Investment Co. v. Mays,* Decree, (6th Jud. Dist. Idaho, March 4, 1927). The decree is attached as Exhibit 1. Water right nos. 33-69, 33-70, 33-71, 33-72, 33-80, 33-81 and 33-82 are the more senior of the high water rights with priority dates ranging from October 1, 1906 to March 15, 1909. Water right nos. 33-73, 33-74, 33-76, 33-78 and 33-79 are the more junior high water rights with priority dates ranging from April 1, 1912 to October 15, 1913. Water right nos. 33-69, 33-72, 33-74, 33-76, 33-78 and 33-79 were decreed with the Little Lost River as the source and water rights nos. 33-70, 33-71, 33-73, 33-80, 33-81, 33-82 were decreed with Spring Creek as the source.[6] On the Amended Director's Reports filed along with this report, the priority dates for the various water rights did not change. All the high water rights now have Big Spring Creek and Little Lost River as their source.

2. Recommendations. The discussion for the recommendations for these water rights will focus on the number of acres and quantity elements for these water rights. The sum of these water rights equals 32 cfs. However, only 655 acres were historically irrigated according to Mr. Vance Hawley's testimony at the administrative hearing on Sagewillow's application for transfer. In his testimony, Mr. Hawley describes the irrigated acres field by field. The sum of the acres historically irrigated according to his testimony equals 655 acres.[7] 1987 NAPP photography, 1992 aerial photos and a 1975 orthophotoquad map further support the recommended number of acres. These water rights were historically used on property located in T7N, R28E Sections 1, 7, 8, 12, 13 and 18 when they were available. Sub-irrigation occurs primarily in T7N R28E Sections 7 and 19 on lands not irrigated by these water rights. The high water rights are not available on a regular basis.

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[6] Diagram 1 shows Big Spring Creek however, Spring Creek and Big Spring Creek are one and the same.
[7] Refer to Exhibit 2, IDWR administrative hearing transcript, page 13, line 18 through page 24, line 25.

If the total quantity of 32 cfs were recommended on the land historically irrigated under these water rights, then the resulting flow rate would be 2.5 miners inches per acre. These water rights were decreed at 0.02 cfs/acre. The Department's Amended Director's Reports are consistent with the decreed rates of diversion providing for the delivery of 0.02cfs/acre at the field headgate.

The quantity on the Amended Director's Reports for the more senior of the high water rights is cumulative until one inch of water per acre is provided on the 655 acres. The more junior high water rights are then limited with quantity and place of use remarks that say when combined with the senior high water rights, that all the water rights are limited to the delivery of 0.02 cfs/acre at the field headgate and the irrigation of 655 acres. The original recommendations for these high water rights also contained a combined limit of 0.02 cfs/acre, however, the condition specified a total combined diversion rate. The remarks on the Amended Director's Report are more administrable from the Department's perspective and do not limit the more senior high water rights unnecessarily.

B. Water Right Nos. 33-2007 and 33-2008

These two water rights are recommended to be disallowed because they are recommended as 33-71 and 33-73 respectively. The Department concludes that license nos. 33-2007 and 33-2008 were superceded by the decree in *Blaine County Investment Co. v. Mays,* (6th Jud. Dist. Idaho, March 4, 1927). This conclusion is based on the following reasons: (1) the license holders' predecessors in interest were parties in that case and (2) the sources and places of use for the two licenses are covered by water rights decreed in that case.

1. Background. License no. 33-2007 was in the name of Adolph M. Myrup for 3.2 cfs with a February 1, 1909, priority date from the Little Lost River. License no. 33-2007 is attached as Exhibit 3. Decreed right no. 33-71 was decreed from Spring Creek with a March 15, 1909, priority date to Merchants Trust & Savings Bank to be used on property titled in the decree as "A.M. Myrup Desert Entry." *Blaine County Investment Co.* ¶ XXI. The land in the decree and the license are summarized in the following table:

Licensed POU for 33-2007	**Decreed POU for 33-71**
T7N, R28E, S18, SENW, SWNE, NWSE, NESE	T7N, R28E, S18, SENW, SWNE, NWSE, NESE

License no. 33-2008 was developed in the name of Lillian Myrup for 6.4 cfs from Spring Creek with a June 12, 1909, priority date. License no. 33-2008 is attached as Exhibit 4. Water right no. 33-73 was decreed from Spring Creek with an April 1, 1912, priority date to Merchants Trust & Savings Bank to be used on property titled in the decree as "Lillian Myrup Entry." Id. The land in the decree and the license are summarized in the following table:

Licensed POU for 33-2008	**Decreed POU for 33-73**
T7N, R28E, S8, NENW, SENW, SWNW, NESW, NWSW. SESW, NWSE, SWSE	T7N, R28E, S8, NENW, SENW, SWNW, NESW, NWSW, SESW, NWSE, SWSE

2. Recommendation. Since the decree involves the same lands that were subject to the prior licenses (33-2007 and 33-2008) and the parties on the licenses were also involved in the decree by the fact that their predecessors in interest were parties to that decree, the Department concludes that decreed right nos. 33-71 and 33-73 replace license nos. 33-2007 and 33-2008. This conclusion is further bolstered by the fact that if 33-2007 and 33-2008

were considered to be separate water rights, then the licensed place of use would have a combined total of 0.04 cfs/acre from surface water rights. This would result in the Department putting a combined used limit of .02 cfs/acre on the water rights, even if 33-2007 and 33-2008 were considered separate and apart from decreed water right nos. 33-71 and 33-73.

C. Water Right Nos. 33-2057, 33-2057A, 33-2057B, 33-2057C, 33-2057D, 33-2057E, 33-2057F, 33-2083, 33-2083A, 33-2083B, 33-2083C, 33-2083D, 33-2083E, and 33-2083F

These ground water rights are used on the "Knollin Ranch" but also serve the "Bird Ranch." Because the transfers that created the splits of water right nos. 33-2057 and 33-2083 have been withdrawn, the Amended Director's Reports disallow the "A" through "F" splits. Instead, these water rights are recommended under the "parent" water right nos. 33-2057 and 33-2083 in Director's Reports filed along with this report.[8] Water right no. 33-2057F had a USFS objection due to the typographical error discussed previously. That objection should be resolved with the filing of the Director's Report for water right no. 33-2057.

1. Background. Water right no. 33-2057 was licensed for 24 cfs from ground water on 1,483 acres with a February 1, 1950, priority date. The land originally irrigated under this water right was located on the "Knollin Ranch" and the "Bird Ranch." Water right no. 33-2083 was licensed from ground water with an August 23, 1957, priority date for 5 cfs on the same 1,483 acres as 33-2057. These water rights are diverted from well numbers 1, 2, 3, 4, 5 and 11 as depicted on Diagram 1. The water from wells 1, 2, and 3 is applied directly to the land. The water diverted from wells 4, 5, and 11 is diverted into a ditch and then injected into the Little Lost River at the point of injection recommended on the Amended Director's Report in T7N R27E Section 12. The ground water is then rediverted either by exchange or by commingling

[8] This is the first time that these water rights without the splits have been recommended in the SRBA.

from four points of rediversion onto the two properties. The points of rediversion for these two water rights are the same points of diversion as recommended for the high water rights plus the point of rediversion located in T8N, R27E Section 15. From this point of rediversion, water from the Little Lost River is transported by a ditch and put on the "Bird Ranch" for irrigation purposes.

2. Recommendation. The Department has concluded that a total of 1181.9 acres are irrigated under these water rights. This conclusion is based in part on Vance Hawley's testimony at the administrative hearing on Sagewillow's transfer applications. Mr. Hawley testified that he remembered a total of around 1,200 acres being irrigated.[9] IDWR's shape file, based on this testimony and coupled with 1987 NAPP photography, 1992 aerial photographs, 1975 orthophotoquad map, and the topography of the land resulted in a total of 1181.9 acres.

Sagewillow's objections originally filed in the SRBA to the "A" through "F" splits of 33-2057 and 33-2083 contended that 2,383 total acres is irrigated under these water rights when combined with various other water rights. However, the Department concludes that the total number of acres historically irrigated on the "Knollin Ranch" and the "Bird Ranch" is only 1181.9 acres. Water right nos. 33-2057 and 33-2083, like the high water rights, are limited to .02 cfs at the field headgate, thus, more than an inch per acre can be diverted from ground water and rediverted from surface water so that the water user suffers no conveyance loss.

D. Water Right Nos. 33-2086A, 33-2086B and 33-7018

These water rights are located on the "Frew Place." The "A" and "B" splits of water right no. 33-2086 reflect a change in the ownership of the water right that resulted when David Hawley sold a portion of the "Frew Place" to Sagewillow in March 1993. The Deed is attached as Exhibit 5.

[9] Refer to Exhibit 2, page 26, lines 1-20.

1. Background. Idaho Law recognizes that a water right is a real property interest. I.C. § 55-101. A water right is an appurtenance to the land on which the water is actually applied. *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984). Idaho Code § 42-220 states that: "all rights to water confirmed under the provisions of this chapter, or by any decree of court, shall become appurtenant to, and shall pass with a conveyance of, the land for which the right of use is granted." When land is conveyed together with all appurtenances, the land carries with it all appurtenant water rights unless the deed conveying the land expressly reserves some or all of the water rights. See *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911). The converse must be equally true: a deed purporting to convey only appurtenant water rights cannot be construed to convey water rights not appurtenant to the lands being sold unless it can be clearly shown that the intent of the parties was to convey the water rights in their entirety, regardless of the number of acres sold. The deed conveying the property from David Hawley to Sagewillow states:

> TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-0718.[10] (sic)

The Department concludes that the controlling phrase in the deed is "appurtenant thereto" which indicates only the water under license nos. 33-2086 and 33-7018 that was appurtenant to the land purchased by Sagewillow was conveyed.[11] Thus, the Amended Director's Reports filed along with this report are based on this conclusion.

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[10] Although the deed states water right no 33-0718 instead of 33-7018, it is understood that 33-7018 is correct and that the deed contains a typographical error.

[11] The Department has two documents in its files that also discuss these water rights. These documents are attached hereto as Exhibits 6 and 7. The first document is titled "Notice Concerning Water Rights for Property" and the second document is titled "Assignment of Notice of Claim(s)." The Department concludes that neither of these documents is sufficient to convey all of the water right under license nos. 33-2086 or 33-7018. If conveying all the water right was in fact the parties intent, then, that can be easily remedied with another deed from Mr. Hawley to Sagewillow removing the water from the 31 acres still owned by Mr. Hawley and conveying it to Sagewillow. At that point, however, a transfer would be required to change the place of use for that portion of the water right.

2. Recommendation. The place of use for license no. 33-2086 lists 260 acres with 4.10 cfs. However, only 230 acres were ever historically irrigated; thus, the water right appurtenant to the "Frew Place" is for 230 acres. The conclusion on the number of acres irrigated is based on testimony on historical usage during the administrative proceeding plus 1987 NAPP photography. In accordance with Department policy, the quantity of the license will not be reduced and remains 4.10 cfs since it does not exceed .02 cfs/acre. According to the Warranty Deed, David Hawley still owns the NWSW Section 32, T08N, R28E containing 31 acres originally irrigated under this license. Of the property purchased by Sagewillow, 199 acres were actually historically irrigated as depicted on Diagram 1. Therefore, the recommendation for 33-2086A, still owned by Mr. Hawley is for 31 acres and 0.550 cfs and the recommendation for 33-2086B, purchased by Sagewillow is for 199 acres and 3.55 cfs.

Water right no. 33-7018 was originally licensed for 3.26 cfs on 163 acres with a September 12, 1972, priority date. This water right originally irrigated lands located on the "Frew Place" in T7N, R28E Section 5. This water right has been recommended for a total of 163 acres within a permissible place of use of 199 acres on the "Frew Place" but shares combined use remarks with 33-2086B. This conclusion is based on what was historically irrigated at that location which is supported by 1987 NAPP photography.

E. Water Right No. 33-2090

The Department recommended water right no. 33-2090 as disallowed for the following reasons: 1) clear and convincing evidence shows that the water right was not used from 1969 to 1989; and 2) the current points of diversion used under 33-2090 on the "North of Road" place are unauthorized.

1. Background. Water right no. 33-2090 was licensed for 5.93 cfs with a December 21, 1959, priority date from ground water. The point of diversion for this water right is located in the T7N R27E S1 NWSW and was licensed to irrigate 320 acres located in T7N R27E S1 and T7N R28E S6, shown on Diagram 1 as "North of Road" place. Sagewillow purchased the "North of Road" property in 1989. Shortly thereafter, Sagewillow drilled two wells, one in T7N R27E S1 SWNESE (Well #10 on Diagram1) and one in T7N R28E S6 SWNESW. (Well #9 on Diagram 1). Sagewillow's intent was to place three new pivots on the "North of Road" place using these two new wells and an existing well located in T7N R27E S12 NENENE. (Well #1 on Diagram 1) Thus, Sagewillow filed an application for transfer No. 2222 to recognize three new points of diversion for the "North of Road" place. Application for transfer no. 2222 was protested. After an administrative hearing on this transfer, the Department denied transfer of water right no. 33-2090 because it found that this water right had not been used since the late 1960s and the Department determined that resumption of use for this water right was not valid. After the Supreme Court reviewed the Department's decision on this transfer and remanded the matter back to IDWR for further findings on the resumption issue, Sagewillow withdrew application for transfer no. 2222. Thus, when making the Amended Director's Reports to the SRBA Court for water right no. 33-2090, the Department reviewed this water right without regard to the transfer application.

2. Recommendation.

a) Forfeiture. Sworn testimony during the administrative hearing on application for transfer no. 2222 by Vance Hawley, who had personal knowledge of the irrigation practices on the "North of Road" place and whose testimony was credible, demonstrated that no water had been used on the "North of Road" place since 1969. Mr.

Hawley's testimony stated that his aunt and uncle owned this property and that irrigation on the property was to secure a patent under the Desert Land Entry Act. Mr. Hawley did not recall the land ever being irrigated when he was on the property.[12] Furthermore, NAPP imagery also shows that in 1987 no water was applied to this property. Hence, the Department concludes that this water right has been forfeited due to non-use from 1969 to 1989.

b) Unauthorized Points of Diversion. There is no valid defense to forfeiture for 33-2090. In order to change a water right's point of diversion, a transfer must be filed pursuant to I.C. § 42-222 unless the transfer occurred prior to 1987 and then the transfer can be recognized under the "accomplished transfer" statute, I.C. § 42-1425. In Sagewillow's case, the three points of diversion currently used on the "North of Road" place were not used until after Sagewillow purchased the property in 1989. Thus, absent a valid transfer, there is no legal way to recognize the points of diversion currently being used by Sagewillow under 33-2090. Not only has water right 33-2090 been forfeited for non-use for over 20 years, but also the points of diversion described under the water right are unauthorized.

It is impossible to find that 33-2090 was legally resumed using illegal points of diversion. The new points of diversion have no legal basis to be recommended in the SRBA. The Supreme Court in *McCray v. Rosenkrance*, 135 Idaho 509, 20 P.3d 693 (2001), held that resumption is not a valid defense to forfeiture when the place of use has been changed for the resumed water right prior to the filing of a transfer. *McCray* at 518, 20 P.3d at 702. In *McCray*, the Court noted that although the water user was trying to claim that certain water rights were resumed by changing the place of use of the water rights, the Court specifically stated "it has not been alleged that he sought the permission of the water district as required by Idaho Code § 42-108, *or that he made application to change the place of use with the IDWR as required by Idaho*

[12] Refer to Exhibit 2, page 28 line 17 through page 30, line 7.

Code § 42-222." Id. (emphasis added). The Court held that "[i]t is clearly the law in Idaho that a water right cannot be resumed when the facts clearly establish that water was not applied to the land of which it was appurtenant." *Id.* A logical application of this holding is that resumption is not available as a defense against forfeiture when the resumption occurred in a manner that would require a transfer under I.C. § 42-222. Thus, in this case, because the points of diversion on "North of Road" place are unauthorized, resumption is not a valid defense against forfeiture. Therefore, the Department has not analyzed, for purposes of this report, whether any resumption occurred prior to the initiation by a third party of a right to use the water not diverted under the forfeited water right or whether resumption would cause injury to other water users.[13]

F. Water Right No. 33-2091

1. Background. The Department also recommended water right no. 33-2091 as disallowed because the water right had been forfeited for non-use from 1969 to 1989. Water

[13] If the Court determines that the basis for the Department's finding that water right no. 33- 2090 is forfeited and disallowed is not appropriate and that resumption should be considered at the unauthorized points of diversion, the Department can submit an expert report at the Court's request that details whether or not resumption causes injury to other junior water right holders. The Department has already determined in its Final Order that:

> 12. A geologic formation near the confluence of the Little Lost River and Spring Creek impedes the southward flow of ground water in the underlying aquifer, causing the ground water and surface water to merge in the southern half of Knollin Ranch. The Little Lost River loses water to the underground aquifer above the Knollin Ranch, but as the ground water and surface water merge, the Little Lost River and Spring Creek gain water as they flow through the Knollin Ranch. The Little Lost River continues to gain water downstream several miles to the Canal Co. diversion.
>
> 13. The Little Lost River and the aquifer underlying the Little Lost River Basin downstream of the Knollin Ranch are dependent on water flows which pass the Knollin Ranch, either on the surface or underground.
>
> 14. The Hawley wells were drilled into the shallow portion of the aquifer which is hydrologically connected to the surface water. There is a direct hydrologic connection between the water pumped by the Hawley wells and the surface water that flows downstream into the Little Lost River below the Knolling Ranch.

right no. 33-2091 was licensed for 5.60 cfs with a January 22, 1960, priority for use on 320 acres of property known as the "Homestead Place." (See Diagram 1.) In 1990, Edmund Dumke, as President for Sagewillow Inc., filed application for transfer no. 3785 to change the point of diversion and place of use for this water right to the "North of Road" place. The application for transfer was not protested and was approved to change the place of use and point of diversion for license no. 33-2091 based upon the verified information contained in the application without conducting an independent investigation of the facts. This transfer resulted in an overlap of the place of use under license no. 33-2090.[14] Apparently, pursuant to transfer no. 3785 two pivots were installed on the "North of Road" lands in 1990 and the irrigation of the property commenced that same year.[15]

2. Recommendation. Sworn testimony at the administrative hearing by Mr. Vance Hawley who had personal knowledge of the irrigation practices on the "Homestead Place" and whose testimony was credible provided that this property was only irrigated by his parents for the purpose of obtaining a patent to the land. Irrigation was discontinued after the patent process was complete due to the condition of the ditches.[16] Furthermore, 1987 NAPP photography shows, that license no. 33-2091 originally appurtenant to the "Homestead Place," ceased being used once the patent for the land was issued in the late 1960's. Water right no. 33-2091 was not used again until after Sagewillow purchased the property in 1989, but it was then used on the "North of Road" property. Thus, the Department concludes that water right no. 33-2091 is forfeited due to non-use from 1969 to 1989.

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[14] One of the reasons Sagewillow filed its series of transfer applications that were ultimately appealed to the Supreme Court was to change transfer no. 3785 by moving license 33-2091 to lands not already covered under license 33-2090.

[15] The development of the new points of diversion actually occurred prior to authorization as Transfer no. 3785 was not approved until October, 1992.

[16] Refer to Exhibit 1, page 8, line 15 through pate 12, line 11.

The Department's Final Order in application for transfer no. 2222 found that transfer no. 3785 was void because water right no. 33-2091 had not been used since 1969. Whether or not it was proper to void this transfer because the water right had been forfeited was addressed by the Supreme Court in *Sagewillow*. The Supreme Court specifically stated:

> it would be a substantial burden upon the Department to require that in response to every transfer application it conduct an investigation into whether the water right(s) involved had been lost or reduced by forfeiture or abandonment. Therefore, we hold that if forfeiture or abandonment is not actually raised as an issue in a proceeding to transfer the point of diversion or place of use of a water right, the final order in the transfer proceeding is not *res judicata* on the issue of whether or not the water right had been forfeited or abandoned.

Sagewillow, 138 Idaho at 671, 70 P.3d at 683. The Court went on to say that "[w]hen approving the transfer in 1992, the Department expressly stated that the approval did not preclude later review of the validity of the water right." Id. Thus, the Supreme Court affirmed that the Department had the authority to void the transfer.

Regardless, however, of whether or not the transfer is void, the Supreme Court acknowledged that transfer no. 3785 did not find that water right 33-2091 was valid and did not consider forfeiture. Id. The Department concludes, as reflected in the Amended Director's Reports for water right no. 33-2091 that the water right is invalid because of non-use from 1969 to 1989.

G. Water Nos. 33-2133 and 33-11003

Water right no. 33-2133 was licensed for 2,960 acre feet with a June 22, 1949, priority date for "Soil Root Zone Storage only." This water right is used for soil root zone storage on lands located on the "Knollin Ranch." This water right allows the diversion of waters from the Little Lost River and Upper Spring Creek[17] to be diverted and applied to land to raise the subwater table so the root zone is saturated. Some of this water is collected in a series of ponds

[17] Upper Spring Creek is the same as Big Spring Creek shown on Diagram 1.

to accomplish this purpose. Water right no. 33-11003 accompanies licensed right no. 33-2133. This water right allows diversion of the storage water collected in the ponds so it can be applied on the recommended place of use for this water right.

The Amended Director's Reports filed along with this report for these two water rights show that these two water rights can be used on 1436.1 acres. Attached hereto as Diagram 2 shows the place of use for these water rights. The conclusion for the number of acres and location of the acres is based in part on information in water right license file no. 33-2133 and on information received from Dr. Charles Brockway, the engineer employed by Sagewillow to confirm the place of use for these two water rights.

V. CONCLUSION

The Department's analysis of the various water rights and the basis of its recommendations in the Director's Reports and Amended Director's Reports filed contemporaneously with this report are based upon solid facts and law. The water rights should be partially decreed as recommended in the Director's Reports and Amended Director's Reports filed herewith.

Respectfully submitted this 1st day of October, 2003.

Ernest Carlsen
Water Rights Supervisor, IDWR

CERTIFICATE OF MAILING

I certify that on _____, 2003 I mailed and/or delivered the original and copies of this form, including all attachments, to the following interested parties, by placing them in sealed envelopes, addressed as follows:

1. Original to:

Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707	__ Overnight Mail __ Regular Mail __ Hand-Delivered _ Facsimile

2. Copies to:

Office of the Attorney General Natural Resources Division Box 83720 Boise, ID 83720-0010	__Overnight Mail __Regular Mail __Hand-Delivered __Facsimile
United States Department of Justice Environment & Natural Resources Div. 550 West Fort Street MSC 033 Boise, ID 83724	__Overnight Mail __Regular Mail __Hand-Delivered __Facsimile
Kent Foster P.O. Box 50130 Idaho Falls , ID 83405	__Overnight Mail __Regular Mail __Hand-Delivered __Facsimile
Michael Creamer P.O. Box 2720 Boise , ID 83701-2720	__Overnight Mail __Regular Mail __Hand-Delivered __Facsimile

_____
Signature of person delivering form

to accomplish this purpose. Water right no. 33-11003 accompanies licensed right no. 33-2133. This water right allows diversion of the storage water collected in the ponds so it can be applied on the recommended place of use for this water right.

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Respectfully submitted this 1st day of October, 2003.

Ernest Carlsen

Ernest Carlsen
Water Rights Supervisor, IDWR

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

February 20, 2004

Holden, Kidwell, Hahn & Crapo
Attn.: Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

RE: Sagewillow High Water Irrigated Areas

Dear Kent:

Attached, please find an aerial photo map showing the high water irrigated areas including the Bird Ranch as outlined by Rich Pancheri. It also shows the 1800 acres ground water scenario.

I have also included an excel spreadsheet showing the irrigated acreage by forty (40) acre tract for a total of nine hundred seventy-eight (978) acres.

Please let me know if this is adequate

Sincerely,

Charles E. Brockway, P.E., PhD.

Enclosure
CEB/jjd

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

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RECEIVED FEB 2 3 2004

DUMKE SAGEWILLOW

IRRIGATED AREAS FROM HIGH WATER RIGHTS LITTLE LOST RIVER

2/20/2004

TOWNSHIP	RANGE	SECTION	QQ		IRRIAGTED ACRES
07S	27E	1	SWSW		30.9
			SESW		2.6
		12	NWNE		2.8
			SWNE		40.6
			NENW		20.1
			NWNW		26.6
			SENW		19.5
			SESW		8.5
			NESE		2.1
			NWSE		29
			SWSE		7.1
			SESE		31.8
		13	NENE		32.8
			NWNE		34.2
			NENW		30.3
07S	28E	5	SESW		25.3
			SWSE		12.1
		7	NWSW		11.8
			SWSW		25.9
			SESW		10.2
		8	NWNE		19.4
			SWNE		24.9
			NENW		0.6
			SENW		0.3
			NWSE		31.6
			SWSE		21.4
		18	NWNE		12.6
			SWNE		29.6
			SENE		11.4
			NENW		10.8
			NWNW		24.4
			SWNW		9.6
			SENW		30.8
			NESE		34.3
			NWSE		16.1
08S	27E	34	SWNE		38
			SENW		39
			NESW		40
			NWSW		33
			SWSW		28
			SESW		38
			NWSE		40
			SWSE		40
				TOTAL	978

DUMKE SAGE WILLOW

IRRIGATED AREAS FROM HIGH WATER RIGHTS LITTLE LOST RIVER

2/20/2004

TOWNSHIP	RANGE	SECTION	QQ		IRRIAGTED ACRES
07S	27E	1	SWSW		30.9
			SESW		2.6
		12	NWNE		2.8
			SWNE		40.6
			NENW		20.1
			NWNW		26.6
			SENW		19.5
			SESW		8.5
			NESE		2.1
			NWSE		29
			SWSE		7.1
			SESE		31.8
		13	NENE		32.8
			NWNE		34.2
			NENW		30.3
07S	28E	5	SESW		25.3
			SWSE		12.1
		7	NWSW		11.8
			SWSW		25.9
			SESW		10.2
		8	NWNE		19.4
			SWNE		24.9
			NENW		0.6
			SENW		0.3
			NWSE		31.6
			SWSE		21.4
		18	NWNE		12.6
			SWNE		29.6
			SENE		11.4
			NENW		10.8
			NWNW		24.4
			SWNW		9.6
			SENW		30.8
			NESE		34.3
			NWSE		16.1
08S	27E	34	SWNE		38
			SENW		39
			NESW		40
			NWSW		33
			SWSW		28
			SESW		38
			NWSE		40
			SWSE		40
				TOTAL	978

SAGEWILLOW IRRIGATION SCENARIOS

Prepared by Brockway Engineering September 9, 2003

TN	RNG	SEC.	QQ	IRR. ACRES	SCENARIOS 1400	1600	1800	2000	2337
07N.	27E.	1	NENE	31.4	31.4	31.4	31.4	31.4	31.4
			NWNE	31.4	31.4	31.4	31.4	31.4	31.4
			SWNE	32	32	32	32	32	32
			SENE	32	32	32	32	32	32
			NENW	31.5	31.5	31.5	31.5	31.5	31.5
			NWNW	40.1				40.1	40.1
			SWNW	39.8				39.8	39.8
			SENW	32	32	32	32	32	32
			NESW	35.4	35.4	35.4	35.4	35.4	35.4
			NWSW	2.7	2.7	2.7	2.7	2.7	2.7
			SWSW	31.5		31.5	31.5	31.5	31.5
			SESW	36.1	36.1	36.1	36.1	36.1	36.1
			NESE	36.5	36.5	36.5	36.5	36.5	36.5
			NWSE	34.6	34.6	34.6	34.6	34.6	34.6
			SWSE	32.5	32.5	32.5	32.5	32.5	32.5
			SESE	33.5	33.5	33.5	33.5	33.5	33.5
			TOTAL	513	401.6	433.1	433.1	513	513
		12	NENE	38.9	38.9	38.9	38.9	38.9	38.9
			NWNE	39.2				39.2	39.2
			SWNE	38.6				38.6	38.6
			SENE	32	32	32	32	32	32
			NENW	36.2				36.2	36.2
			NWNW	26.6		26.6	26.6	26.6	26.6
			SENW	6.4				6.4	6.4
			SESW	8.6			8.6	8.6	8.6
			NESE	2.2					2.2
			NWSE	19.1					19.1
			SWSE	1.9					1.9
			SESE	29.3					29.3
			TOTAL	279	70.9	97.5	106.1	226.5	279
		13	NENE	31.8					31.8
			NWNE	34.2			34.2	34.2	34.2
			NENW	30.3			30.3	30.3	30.3
			TOTAL	96.3	0	0	64.5	64.5	96.3
	TOWNSHIP TOTAL			888.3	472.5	530.6	603.7	804	888.3

TN	RNG	SEC.	QQ	IRR. ACRES	SCENARIOS 1400	1600	1800	2000	2337
07N.	28E	5	NENW	26.9	26.9	26.9	26.9	26.9	26.9
			NWNW	32.5	32.5	32.5	32.5	32.5	32.5
			SWNW	16.8	16.8	16.8	16.8	16.8	16.8
			SENW	31.2	31.2	31.2	31.2	31.2	31.2
			NESW	38.4	38.4	38.4	38.4	38.4	38.4
			NWSW	15.1					15.1
			SWSW	34.3					34.3
			SESW	30.3	30.3	30.3	30.3	30.3	30.3
			SWSE	12.1	12.1	12.1	12.1	12.1	12.1
			TOTAL	237.6	188.2	188.2	188.2	188.2	237.6
		6	NWNE	30.9	30.9	30.9	30.9	30.9	30.9
			SWNE	32.2	32.2	32.2	32.2	32.2	32.2
			SENE	25.7			25.7	25.7	25.7
			NENW	30.8	30.8	30.8	30.8	30.8	30.8
			NWNW	30.9	30.9	30.9	30.9	30.9	30.9
			SWNW	32.2	32.2	32.2	32.2	32.2	32.2
			SENW	31.8	31.8	31.8	31.8	31.8	31.8
			NESW	37	37	37	37	37	37
			NWSW	34.1	34.1	34.1	34.1	34.1	34.1
			SWSW	31	31	31	31	31	31
			SESW	35.1	35.1	35.1	35.1	35.1	35.1
			NESE	3.3					3.3
			NWSE	36	36	36	36	36	36
			SWSE	34.2	34.2	34.2	34.2	34.2	34.2
			SESE	5.1					5.1
			TOTAL	430.3	396.2	396.2	421.9	421.9	430.3
		7	NENE	39.8			39.8	39.8	39.8
			NWNE	39.6	39.6	39.6	39.6	39.6	39.6
			SWNE	34.3	34.3	34.3	34.3	34.3	34.3
			SENE	32.2			32.2	32.2	32.2
			NENW	40.1	40.1	40.1	40.1	40.1	40.1
			NWNW	39.5	39.5	39.5	39.5	39.5	39.5
			SWNW	23.6	23.6	23.6	23.6	23.6	23.6
			SENW	35.3	35.3	35.3	35.3	35.3	35.3
			NESW	1					1
			NWSE	0.8					0.8
			TOTAL	286.2	212.4	212.4	284.4	284.4	286.2

TN	RNG	SEC.	QQ	IRR. ACRES	SCENARIOS 1400	1600	1800	2000	2337
		8	NWNE	19.4	19.4	19.4	19.4	19.4	19.4
			SWNE	24.9	24.9	24.9	24.9	24.9	24.9
			NENW	1.2					1.2
			NWNW	30.9			30.9	30.9	30.9
			SWNW	32.3			32.3	32.3	32.3
			SENW	0.3					0.3
			NWSE	31.6	31.6	31.6	31.6	31.6	31.6
			SWSE	21.4	21.4	21.4	21.4	21.4	21.4
			TOTAL	162	97.3	97.3	160.5	160.5	162
		18	NENE	0.7					0.7
			NWNE	4.9					4.9
			SWNE	40.3					40.3
			SENE	34.3					34.3
			NWNW	33.7					33.7
			SWNW	23.1					23.1
			SENW	33.9					33.9
			NESE	34.3					34.3
			NWSE	16.1					16.1
			TOTAL	175.4					175.4
	TOWNSHIP TOTAL			1291.5	894.1	894.1	1055	1055	1291.5
8N.	28E.	31	NESW	17.8		17.8	17.8	17.8	17.8
			NWSW	24.2		24.2	24.2	24.2	24.2
			SWSW	33.5		33.5	33.5	33.5	33.5
			SESW	24.7		24.7	24.7	24.7	24.7
			TOTAL	100.2	0	100.2	100.2	100.2	100.2
		32	SWSW	39.3	39.3	39.3	39.3	39.3	39.3
			SESW	17.7	17.7	17.7	17.7	17.7	17.7
			TOTAL	57	57	57	57	57	57
	TOWNSHIP TOTAL			157.2	57	157.2	157.2	157.2	157.2
	TOTAL OF ALL TOWNSHI			2337	1423.6	1581.9	1815.9	2016.2	2337

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Via Hand Delivery

January 27, 2004

Mr. Karl J. Dreher
Director
Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Sagewillow
Our File No. 3314-10

Dear Karl:

Pursuant to our telephone conference last week in connection with the settlement conference between Sagewillow, Mays Land & Livestock and Blaine County Canal Company, I am enclosing a proposed stipulation among the parties that contains proposed findings of fact and conclusions of law intended as the basis for settlement of this long-standing litigation. The proposed stipulation outlines the issues that were discussed in the telephone conference, and provides a means by which the Department may recognize a resumption of use on 73 acres of land to enable Sagewillow to develop a project of 1816 acres as the parties have agreed to. We have endeavored as well to do this in a way that does not set any precedent for future Department decisions—this matter is decided specifically on the unique facts of this case.

Kent Foster has provided Ernie Carlson with information concerning the Frew Place water right to demonstrate the parties' intent was to convey all of the Hawley water rights to Sagewillow. The signed stipulation would be accompanied by an affidavit of Mr. Nord with that documentation as an attachment.

Provided the Department is willing to adopt the findings and conclusions in substantially the form of this stipulation, we would sign it, and forward it with the Nord affidavit and Sagewillow's request that the Department reopen the transfers for the purpose of entering an order on the transfers (and subsequently recommending the rights to the SRBA) consistent with the Stipulation.

We look forward to hearing from you and to closing this matter. If it is convenient for you, Kent Foster will be at the Idaho Water Users Association meeting on Thursday and I could arrange to come over to discuss this with you and Kent.

Sincerely,

Michael C. Creamer

Enclosure

cc: Kent Foster (via Facsimile)
Candice McHugh (via Hand Delivery)
Phil Rassier (via Hand Delivery)
James Mays (via U.S. Mail)
Bill Stauffer (via U.S. Mail)

MCC:kdt S:\CLIENTS\3314\10\MCC Ltr to Karl Dreher re Proposed Stipulation.DOC

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Attorneys for Sagewillow, Inc.

BEFORE THE DIRECTOR OF

THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226, AND 4227 IN THE NAME OF SAGE WILLOW, INC.	**APPLICANT'S AND PROTESTANTS' STIPULATION TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ON REMAND TO IDWR**

Applicant Sagewillow, Inc., through its attorney Kent Foster of the firm of Holden Kidwell Hahn and Crapo, and Protestants James Mays, Mays Land & Livestock, and Blaine County Canal Company, through their attorney Michael C. Creamer of the firm of Givens Pursley LLP hereby stipulate to the following findings of fact and conclusions of law with

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respect to the above-captioned water rights transfers ("Transfers") now pending before the Idaho Department of Water Resources ("Department") on remand from the Idaho Supreme Court. The parties also stipulate to supplementation of the record by Sagewillow, and waive their right to a hearing.

BACKGROUND INFORMATION

1. On September 20, 1993, Sagewillow filed the Transfers with the Department seeking to change the place of use and points of diversion of various ground and surface water rights originally authorized for irrigation purposes on a combined total of 2,383 acres.

2. The Transfers were protested by James Mays, Mays Land & Livestock, and Blaine County Canal Company.

3. The Protestants alleged that all or portions of the above-captioned water rights had been abandoned by Sagewillow's predecessor in interest, Slim Hawley, or in any event had been forfeited due to non-use for more than the statutory five-year period.

4. A hearing on the Transfers was held in Idaho Falls, Idaho on January 31 and February 1, 1995.

5. The Department issued a final order on March 12, 1996 ("1996 Order"). On review of the 1996 Order the Idaho Supreme Court, on April 10, 2003, remanded the Transfers to the Department for further proceedings under a clarified statement of the doctrine of resumption of use.

6. On _____, 2003, Sagewillow requested that the Transfers be deemed withdrawn. On _____, pursuant to a stipulation of the parties, Sagewillow submitted notice that it wished to revoke the withdrawal of the Transfers. The Notice was accompanied, a

Stipulation to Findings of Fact and Conclusions of Law, and a proposed irrigation plan, proposing use of water pursuant to the Transfers to irrigate no more than 1,816 acres.

7. The Department has considered the above documents and pleadings, the record of the prior proceedings, the decision of the Idaho Supreme Court, and being otherwise advised, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

Water Right Nos. 33-2091 and 33-2090

1. With respect to Water Right No. 33-2091, uncontradicted, clear and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under Water Right No. 33-2091 on the lands to which it was appurtenant (known as the "Homestead Place") for at least twenty consecutive years.

2. No evidence was presented to suggest that the non-use of Water Right No. 33-2091 was due to circumstances beyond Slim Hawley's control or that, except as set forth below with respect to Sagewillows subsequent use of water pursuant to Department's approval of Transfer 3785, any other defense to forfeiture could be asserted.

3. With respect to Water Right No. 33-2090, uncontradicted, clear and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under Water Right No. 33-2090 on the lands to which it was appurtenant (known as the "North of the Road Place") for at least twenty consecutive years.

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4. No evidence was presented to suggest that the non-use of Water Right No. 33-2090 was due to circumstances beyond Slim Hawley's control or that any other defense to forfeiture could be asserted.

Water Right Nos. 33-2057 and 33-2083

5. Water Right Nos. 33-2057 and 33-2083, originally were licensed for irrigation of 1,483 acres. There is conflicting or less than conclusive evidence concerning the extent of historical irrigation under these rights, and the extent to which water may or may not have been available for beneficial use on the 1,483 acres in the years prior to Sagewillow's purchase of the Property.

Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008

6. Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008 are water rights with relatively junior priorities that are diverted to beneficial use when available. These water rights historically have been in priority primarily during times of high water, and have been used as a water supply that is supplemental to Water Right Nos. 33-2057 and 33-2083.

Water Right No. 33-02133

7. Water Right No. 33-02133 authorizes diversions of water from Big Spring Creek and from the Little Lost River during the non-irrigation season for "root zone storage."

8. Diversion of water under Water Right No. 33-02133 essentially served to conserve the surface water in storage as ground water on the Knollin Ranch, to make additional water available in the ensuing irrigation season to the pasture grass on the Knollin Ranch, and to provide some amount of additional supply to surface and ground water sources downstream from the Knollin Ranch.

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9. Historically, for reasons beyond Slim Hawley's control, water under Water Right No. 33-02133 often was difficult to divert through the existing ditch to the place of use because of icing problems. Historically, some portion of this water, therefore, remained in Big Spring Creek during the non-irrigation season, immediately passing downstream as surface water. To the extent this occurred, this water may not have been available to augment ground and surface water supplies during the ensuing irrigation season.

10. After Sagewillow acquired the Knollin Ranch, it installed a pipeline to deliver the surface water under Water Right No. 33-02133 to several ponds on the Knollin Ranch where the water is allowed to seep into the ground water. The pipeline minimizes the historical icing problems and permits Sagewillow to divert more surface water in winter to storage as ground water. This development and use has beneficial effects on ground and surface water supplies during the ensuing irrigation season.

Water Right Nos. 33-2086 and 33-7018

11. Water Rights Nos. 33-2086 and 33-7018, which Sagewillow purchased from David Hawley, originally were licensed for irrigation of a combined total of 260 acres on what is known as the "Frew Place." When Sagewillow purchased 230 of the 260 acres "together with appurtenances" it also purchased the existing wells, the land on which the wells are located and additional land for access to the authorized points of diversion, including the point of diversion located on the thirty acres retained by David Hawley.

12. The thirty acres retained by David Hawley have not been irrigated since Sagewillow's purchase of the 230 acres and the appurtenant water rights.

13. Sagewillow has provided the Department with the Affidavit of Reed D. Nord, together with documentation from the Frew Place transaction demonstrating that the parties to

that transaction intended that Sagewillow was buying the 230 acres of land, fee access to the wells, and *all* of Water Right Nos. 33-7018 and 33-2086 appurtenant to the 260 acre Frew Place.

Duty of Water

14. The original licenses issued to Slim Hawley for use on the above-described lands together with evidence in the record, demonstrate that the duty of water for the Sagewillow lands is no more than 0.02 cfs per irrigated acre.

Prior Transfer No. 3785

15. In 1992 the Department approved Transfer No. 3785 by which Sagewillow proposed to change the place of use of Water Right No. 33-2091 from the Homestead Place to the North of the Road Place. Pursuant to Transfer No. 3785 Sagewillow completed a new well, installed mainlines and pivots and commenced irrigating 320 acres of land, which included 185 acres of the North of the Road Place.

16. Sagewillow continued irrigating the above-described 320 acres pursuant to Transfer No. 3785 until that transfer was voided by the1996 Order.

CONCLUSIONS OF LAW

1. The originally authorized place of use under all of the above-described water rights totals 2,383 irrigated acres.

2. Water Right Nos. 33-2091 and 33-2090 totaling 640 irrigated acres were forfeited in their entirety by Slim Hawley before Sagewillow purchased the Homestead Place and the North of the Road Place.

3. Clear and convincing evidence of forfeiture of Water Right Nos. 33-2057 and 33-2083 has not been established. Water Right Nos. 33-2057 and 33-2083 are recognized as valid to the extent of 0.02 cfs per irrigated acre on a 1,483 acre place of use.

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4. Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008 are recognized as valid for use as a supplemental water supply on the same 1,483 acre place of use as described for Water Rights 33-2057 and 33-2083.

5. Idaho law provides that absent contrary evidence of intent of the parties, it is presumed that a water right will pass as an appurtenance in parts on the sale of the land in parts. Although the deed of the 230 acres from David Hawley to Sagewillow purports to convey only the appurtenant water rights, i.e, that portion of the rights appurtenant to the 230 acres conveyed in the deed, Sagewillow has presented sufficient evidence of the parties' intent that the entire water right was to pass with the 230 acres to rebut the presumption that only a portion was conveyed. Water Right Nos. 33-2086 and 33-7018 are recognized as valid to the extent of 0.02 cfs per acre on a 260-acre place of use, and the remaining 30 acres on the David Hawley property has no irrigation water.

6. Clear and convincing evidence of forfeiture of Water Right No. 33-02133 has not been established. Water Right No. 33-02133 is recognized as valid to the extent of 1,436.1 acres of beneficial use for subirrigation, provided however, that water may not be rediverted from storage for direct irrigation under this right.

7. The diversion of Water Right 33-02133 during the non-irrigation season has an unquantified, but acknowledged positive effect on ground water levels on the Knollin Ranch, and delayed benefits to stream flows and ground water levels downstream from the Knollin Ranch.

8. Resumption of use of water under Water Right Nos. 33-2091 and/or 33-2090 will reduce the amount of water available in the Little Lost River downstream from the Knollin Ranch, and accruals to the interconnected ground water source below the Knollin Ranch.

Although such a resumption of use otherwise would reduce the amount of water available to existing junior rights in the ground water source below the Knollin Ranch and preclude a lawful resumption of use under the Supreme Court's decision in *Sagewillow v. IDWR*, the parties have stipulated, and the Department concludes, that the positive hydrologic effects of the winter water diversions under Water Right No. 33-02133 described above will offset or mitigate any adverse effect that may be attributable to the resumption of irrigation of no more than 73 acres under Water Right No. 33-2091.

9. Although Transfer No. 3785 has since been voided by the Department, Sagewillow resumed actual diversions of ground water under Water Right 33-2091 pursuant to the Department's authorization in Transfer No. 3785. Because Sagewillow actually recommenced such use pursuant to Transfer 3785, and because the adverse effects on junior rights of such a resumption (to the extent of no more than 73 acres) was, and can continue to be, prevented by historical and continued winter water diversions under Water Right No. 33-02133, the Department recognizes a valid resumption of use of Water Right No. 33-2091 for irrigation to the extent of 0.02 cfs per acre on 73 acres. The balance of Water Right No. 33-2091 is deemed forfeited.

10. Continued diversions of water under the resumed portion of Water Right No. 33-2091 are deemed mitigated by, and therefore are expressly contingent upon, continued diversions of winter water under Water Right No. 33-02133 to the extent water is available for diversion under that right.

11. The total number of acres authorized to be irrigated under the above-captioned Transfers is 1,816 acres as follows:

a. 1,483 acres under Water Right Nos. 33-2057 and 33-2083, as supplemented by Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008;

b. 260 acres under Water Right Nos. 33-2086 and 33-7018; and

c. 73 acres under Water Right No. 33-2091, subject to continued winter water diversions under Water Right No. 33-02133.

12. The Transfers are APPROVED with conditions as set forth herein. Sagewillow shall be entitled to irrigate up to 1,816 acres under the subject water rights consistent with the irrigation plan submitted by Sagewillow with its Notice of Intent to Proceed with Transfers.

[Other standard conditions: Measuring and reporting, etc.]

DATED this ___ day of January 2004.

GIVENS PURSLEY LLP

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By _____
Michael C. Creamer
Attorneys for James Mays, Mays Land and Livestock Inc. and Blaine County Canal Company

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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By: _____
Kent W. Foster
Attorneys for Sagewillow, Inc.

DRAFT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of January 2004, I served a true and correct copy of the foregoing by delivering the same to the following by the method indicated below, addressed as follows:

Kent W. Foster, Esq.
Holden Kidwell Hahn & Crapo PLLC
330 Shoup Ave.
P.O. Box 50130
Idaho Falls, ID 83405-0130

_____ U. S. Mail
_____ Hand Delivered
_____ Overnight Mail
_____ Facsimile

Michael C. Creamer

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BUTTE

SAGEWILLOW, INC.,

Petitioner,

v.

IDAHO DEPARTMENT OF WATER RESOURCES, JAMES MAYS, MAYS LAND AND LIVESTOCK, AND BLAINE COUNTY CANAL COMPANY,

Respondents.

Case No. CV-96-39

RECEIVED
DEC 0 6 1996
Department of Water Resources

RESPONSE BRIEF OF JAMES MAYS, MAYS LAND & LIVESTOCK AND BLAINE COUNTY CANAL COMPANY

Appeal on Judicial Review from the Idaho Department of Water Resources

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ARGUMENT 6

I. The Department's Conclusion of Forfeiture of the Sagewillow Rights is Supported by Clear and Convincing Evidence. 6

A. The Department's decision that Right Nos. 33-2091 and 33-2090 were forfeited in their entirety is supported by substantial, clear and convincing evidence. 6

1. Evidence of nonuse of Right No. 33-2091 was undisputed. 7

2. Evidence of continuous nonuse of Right No. 33-2090 also was undisputed. 8

B. Clear and unrefuted evidence exists concerning the extent of non-use of the primary rights (Right Nos. 33-2057, 33-2083, 33-0076 and 33-2133) on the Knollin Ranch. 9

C. The Department correctly concluded that Sagewillow was entitled to irrigate no more than 230 acres under Right Nos. 33-02086 and 33-7018. 10

D. Based upon the Department's conclusions of forfeiture, the Department correctly reduced the combined diversion rate for the Sagewillow Rights to 28.24 cfs. 13

II. The Forfeited Sagewillow Rights Were Not Revived Under the Resumption of Use Doctrine. 15

A. Sagewillow did not acquire title to the forfeited water rights. 16

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Respondents James Mays, Mays Land & Livestock and Blaine County Canal Company (collectively "Mays") hereby submit their brief in response to the Petitioner's Opening Brief, filed by Sagewillow, Inc. ("Sagewillow") in the above-captioned matter. For the reasons set forth herein, the Final Order of the Idaho Department of Water Resources ("Department") should be affirmed.

STATEMENT OF THE CASE

Facts and Arguments Below

This is a water right transfer case in which Sagewillow seeks to overturn the final order of the Department which approved with conditions seven applications to transfer 21 separate water rights (the "Sagewillow Rights"). Sagewillow claimed the water rights to be appurtenant to lands known as the Knollin Ranch[1] in the Little Lost River Basin. Sagewillow's applications sought to change the place of use of the water rights to allow irrigation of 2,383 acres of land. R., pp. 1-230.

Mays and the Canal Company protested the applications. The grounds for protest were that the Sagewillow Rights had been partially or totally forfeited, and that approval of their use as proposed in the applications would result in injury to other water rights, including water rights belonging to Mays and the Canal Company. R., p. 238; R., p. 237. Clear, convincing and unrefuted evidence was presented at the hearing showing that two of the Sagewillow Rights (33-2090 and 33-2091) had been

[1]The "Knollin Ranch" referred to herein includes the Knollin Ranch proper, together with parcels referred to in the record as the "North of the Road Property", the Bird Ranch and the "Homestead Property". The "Frew Place" was not part of the Knollin Ranch holdings, but were acquired by Sagewillow through a separate acquisition. *See* Exhibit A attached hereto.

entirely forfeited due to the failure by Sagewillow's predecessor, the original appropriator of the rights, to beneficially use water under those rights for approximately 20 years. Clear and convincing evidence also showed that the remaining primary rights included in the transfers had been partially forfeited to the extent that, for in excess of five consecutive years, no more than 1,412 acres had ever been irrigated with them.

Mays' evidence included testimony by Vance Hawley concerning the extent of use of the Sagewillow Rights. Vance Hawley is the son of Sagewillow's grantor Slim Hawley. Vance Hawley grew up on the Knollin Ranch and also farmed the land for a time as an adult. Tr., Vol. 2, p. 3, l. 13-p. 6, l. 8. Mr. Hawley testified that rights 33-2091 and 33-2090, which originally were appurtenant to the 320 acres of the Bird Ranch, and to 320 acres of land located on the northern portion of the Knollin Ranch, respectively, had never been used since the late 1960s and up through the time the property was acquired by Sagewillow in 1989. As to the use of the remaining primary Sagewillow Rights, Mr. Hawley testified that they had been used on no more than 1,176 acres of the Knollin Ranch[2] during any time that he had been familiar with the properties. Tr., Vol. 2, p. 26, l. 1-20.

Mays also presented expert testimony by Mr. Terry Scanlan, a hydrogeologist who demonstrated that the surface and ground water sources were interconnected in the vicinity of the Knollin Ranch, and interconnected with the Little Lost River and the ground water aquifer downstream therefrom. Based on Mr. Scanlan's review of

[2]Mr. Hawley did not testify regarding use of rights appurtenant to the Frew Place.

various aerial photographs, his inspection of the Knollin Ranch lands from adjacent lands, discussions with Sagewillow's expert witness Dr. Charles Brockway, and based on Mr. Hawley's testimony, Mr. Scanlan concluded that prior to 1989, no more than 1,412 acres of land on the Knollin Ranch and the Frew Place had been irrigated. Tr., Vol. 2, p. 76, l. 20. Mr. Scanlan concluded that the increase in irrigated acres from 1,412 historical acres to 2,383 acres as proposed by the Sagewillow applications would: 1) increase the consumptive use of water in the Little Lost River basin above historical levels; 2) reduce surface flows in the Little Lost River; and 3) reduce the amount of water accruing to the aquifer below the Knollin Ranch that otherwise would be available to other water right holders. Tr., Vol. 2, p. 77-82, l. 14.

Protestant James Mays testified that he held surface and ground water rights with points of diversion downstream from the Knollin Ranch. Among his rights, Mays owns two ground water rights with 1961 priority dates. Protestants Exhibit 22. The District 33 Watermaster, David Andreason, testified that in administering the diversions from the Little Lost, Mays most senior surface rights were subject to curtailment to satisfy more senior rights, and that reduced surface flows resulting from increased consumptive use above the Knollin Ranch would increase the likelihood of cutting such senior surface rights in the future. Tr., Vol. 1, p. 197, l. 18-p. 199, l. 25.

A substantial amount of evidence at the hearing bore on the nature and extent of Sagewillow's attempts to increase the acres of land irrigated under the Sagewillow Rights after Sagewillow acquired the Knollin Ranch from Vance Hawley's mother

Venice in 1989. But as summarized by the Department in its Final Order, Sagewillow's and Mays' witnesses had no substantial disagreement concerning the fact that increasingly more than 1,412 acres were irrigated after 1989. Nor did the witnesses disagree significantly concerning the approximate number of acres actually added between 1989 and 1993.

What the parties do disagree about is the legal effect of Sagewillow's irrigation of the new acres after 1989. Sagewillow contends that this constituted a valid resumption or revival of "dormant" rights. Mays demonstrated convincingly that the common law doctrine of resumption of use, to the extent it has any continuing vitality today, does not apply under the facts here. Mays also argued that Slim Hawley already had forfeited the subject water rights, in whole or in part, when he conveyed the Knollin Ranch "together with their appurtenances", and Sagewillow could take only what Slim Hawley had to give. The Department agreed.

Another significant issue before the Department, and now the District Court, is the appropriateness of the Department's determination to void a previously approved transfer (Transfer 3785) involving Right No. 33-2091. At the hearing Sagewillow's principal, Mr. Dumke testified that he was not familiar with the facts stated in the application when he signed it, but instead relied on the people working for him to make sure the statements were accurate. Tr., Vol. 1, p. 27-28, l. 5; p. 28, l. 18-20. In other words, he had no personal knowledge of the facts stated in the application, and he made no independent inquiry to verify them. The application contained a material omission concerning whether any of the rights had undergone

a five-year period of nonuse. R., p. 1002. The Department's employee who processed the application, Mr. Harold Jones, testified that he made no independent investigation concerning the facts alleged in the application either; nor did he make any inquiry whatsoever regarding whether water had *ever* been diverted to beneficial use after the licenses were issued or whether *any* diversion works even continued to exist. Tr., Vol. 2, p. 128, l. 23-p. 130, l. 6. The record before the Court today contains nothing to suggest that the Department made any investigation concerning *any* of the criteria required by I.C. § 42-222(2) to be considered by the Department in reviewing a transfer application. It was in large part for these reasons, and because of the obvious injury that would occur to other right holders if the Department's omissions were not corrected, that the Department determined to void the prior approval of Transfer 3785.

A more detailed summary of the history of development and use of the Sagewillow Rights, and the evidence presented at trial is contained in the Mays' Post-Hearing Brief and Response to Applicant's Closing Argument, R. pp. 391-414.

STANDARD OF REVIEW

Mays agrees with the recitation of the standard of review contained in the Department's Response Brief.

ISSUES PRESENTED

Mays agrees with the statement of the issues presented on judicial review contained in the Department's Response Brief.

ARGUMENT

I. The Department's Conclusion of Forfeiture of the Sagewillow Rights is Supported by Clear and Convincing Evidence.

Idaho law requires that forfeiture be proved by clear and convincing evidence. *Jenkins v. State Department of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). However, clear and convincing evidence is not synonymous with absolute proof. *See e.g., Graham v. Leek*, 65 Idaho 279, 144 P.2d 475 (1944) (court sustains finding of abandonment in the face of conflicting testimony concerning historical beneficial use, and accepts as clear and convincing, testimony of a witness who had lived on and farmed adjacent tract of land). Evidence that land had not been irrigated for many years, that the ditches and diversion facilities were no longer in use or repair, or that the land had been used as grazing land will support a finding of forfeiture. *Id.*, 65 Idaho at 293.

A. The Department's decision that Right Nos. 33-2091 and 33-2090 were forfeited in their entirety is supported by substantial, clear and convincing evidence.

The Department correctly determined that Right Nos. 33-2091 (originally appurtenant to the Homestead Property) and Right No. 33-2090 (originally appurtenant to lands north of the county road on the Knollin Ranch and referred to in the record as the "North of the Road Property") had been forfeited in their entirety by Sagewillow's predecessor Slim Hawley. Testimony and exhibits introduced at hearing by Mays *and Sagewillow* conclusively show that the points of diversion, and

Mr. Hawley testified that he had occasionally seen wastewater from the adjacent Bird Ranch property running through a low spot on the Homestead property. Tr., Vol. 2, p. 8., l. 18 - p. 9., l. 12. Sagewillow's manager, Mr. Pancheri, testified that he "tried" to irrigate the Homestead Property in 1989 using tail water from the water right appurtenant to *the Bird Ranch property*, but that he succeeded only in getting some water into the gully and onto several acres southwest of the gully. Tr., Vol. 1, p. 83, l. 12 - p. 84, l. 22.[4] There was no evidence that the flow of tail or waste water down this "gully" on the Homestead property amounted to beneficial use of water.

A September 1975 orthophotoquad and aerial photos taken in 1990, 1991 and 1992, Protestant's Exhibits 6, 11, 12 and 13, demonstrate that the 320 acres of the Homestead Property was never irrigated during those years. The total non-irrigation of the Homestead Property from as early as 1975 is substantiated by every aerial photo of the property introduced into evidence by Sagewillow or Mays.

2. Evidence of continuous nonuse of Right No. 33-2090 also was undisputed.

Well 11 originally was developed and used as the diversion point for Right No. 33-2090 by Mr. Hawley's aunt and uncle to irrigate and prove up on the 320 acres known as the North of the Road Property. However, Well 11 was large and expensive to run, and consequently was never used to irrigate its designated place of use after approximately 1966 while Mr. Hawley was familiar with the property. Tr., Vol. 2, p. 17, l. 7-25; p. 28, l. 17 - p. 30, l. 4. Vance Hawley testified that he understood from

[4]The maps and aerial photo exhibits indicate that the lands southwest of this gully are federal lands and outside the place of use of Right No. 33-2091.

his father that like the Homestead Place, the North of the Road Property was irrigated initially to obtain the federal patent, and thereafter was seeded to crested wheatgrass and managed as dry rangeland. Mays' Exhibits 3, 5, 6 and 13 confirm the total lack of beneficial use of Right No. 33-2090 on the North of the Road Property for the years 1975 through 1990. Sagewillow offered no evidence to rebut the evidence of nonuse. Indeed the exhibits introduced by Sagewillow completely substantiate Mr. Hawley's testimony concerning the extent of irrigation on the Knollin Ranch prior to its purchase by Sagewillow in 1989.

B. Clear and unrefuted evidence exists concerning the extent of non-use of the primary rights (Right Nos. 33-2057, 33-2083, 33-0076 and 33-2133) on the Knollin Ranch.

Vance Hawley testified that no more than 1,176 acres of the Knollin Ranch proper ever had been irrigated with the Sagewillow Rights during his tenure there. Tr., Vol. 2, p. 26, l. 13-20. This testimony is substantiated by the Agricultural Conservation and Stabilization Service ("ASCS") aerial photographs and field acreage maps, Protestants' Exhibits 2, 3, 5, 9, 13; Tr., Vol. 2, p. 19, l. 10-p. 20, l. 18, and by Mr. Scanlan's testimony.[5] Like the evidence concerning Right Nos. 33-2091 and 33-2090, there is no real doubt that portions of the primary rights originally appurtenant to the Knollin Ranch proper, and to the Bird Ranch, went unused for many years prior to Sagewillow's purchase of the land. Sagewillow's witnesses, including Mr. Pancheri and Mr. Brockway, testified concerning Sagewillow's attempts

[5]Mr. Scanlan could find evidence of only 1,182 acres of actual irrigation.

to reinstitute irrigation on the Knollin Ranch after 1989, and to place other areas not previously irrigated under sprinklers. These efforts were significantly impeded initially by the absence or poor condition of any diversion and delivery systems for the lands.

Mays Exhibit 21 is a composite illustration of Mr. Pancheri's testimony as constructed by him at the stand concerning the acres on the Knollin Ranch that were irrigated between 1989 and 1993. By its nature this exhibit and the testimony demonstrates what was not irrigated as much as it demonstrates what was irrigated. Indeed, Sagewillow's summary of the level of irrigation that could be and in fact was accomplished on the Knollin Ranch as of 1989 was 1,300 acres (100 acres less than Mays' estimate). *See* Amended Final Order, R., p. 741. Thus, the evidence of non-use of the Sagewillow rights on the Knollin Ranch is abundantly clear.

C. The Department correctly concluded that Sagewillow was entitled to irrigate no more than 230 acres under Right Nos. 33-02086 and 33-7018.

Sagewillow argues that the Department incorrectly limited Sagewillow to irrigation of 230 acres of land on the Frew Place instead of the requested 260 acres. Sagewillow argues that since the two water rights are licensed for irrigation of 260 acres, it should be permitted to irrigate 260 acres even though it purchased only 229 acres of the 260. As Sagewillow originally put it:

> Sagewillow purchased all of the water rights, but not all of the land, and it was contemplated that Sagewillow would transfer the place of use of the two water rights and dry up the 31 acres formerly irrigated within the quarter-quarter section retained by the Hawleys.

Exceptions to Amended Recommended Order, R., p. 673. However, Sagewillow either overlooks or ignores a fundamental principle of water law, which is that water is appurtenant to the land on which it is used, and that absent a stated intent to the contrary, a conveyance of land "together with appurtenances thereto" convey's only so much of the water right that actually is "appurtenant thereto" by virtue of its having been beneficially used thereon. As summarized by Weil,

> The water-right will pass as an appurtenance in parts on a sale of the land in parts. In subdividing a tract it will be presumed that a water-right passes in proportion to the relative size of the subdivision. The purchase of part of land for which water was appropriated will be assumed to own the proportion of the water awarded to the entire tract as his tract bears to the entire tract.

Weil, 1 *Water Rights in the Western States* § 553 (3d ed. 1911). *See also Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984).

Nothing in the record suggests the Grantor's intention to convey more than the appurtenant rights to Sagewillow. R., p. 735. The March 9, 1993 deed from David and Connie Hawley to Sagewillow conveyed

> a single parcel of property. . . contain[ing] 252 acres, more or less, minus 6.5 acres, more or less, within said roads for a net acreage of 245.5 acres, more of [sic] less. . . TOGETHER with all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water rights License Nos. 33-2086 and 33-07018. . . Together with tenements, hereditaments, appurtenances, ditches and ditch rights and water and water rights thereunto belonging or in anywise appertaining. . . TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever.

R., pp. 224-226.[6]

On this record, the Department was entitled to presume that Sagewillow was granted such portion of Right Nos. 33-2086 and 33-07018 as were appurtenant to the lands granted, or approximately 230 acres. The fact that ASCS aerial photos examinied by Mr. Scanlan showed no more than 230 acres of land included within the licensed place of use as actually irrigated is entirely consistent with this presumption—and with the Department's conclusion to allow no more than 230 acres of irrigation under the two rights. In its rebuttal case, Sagewillow never attempted to overcome this presumption with any evidence of an intent contrary to what must be presumed from the warranty deed's language. As such, the Department was fully entitled to conclude that any portion of Right Nos. 33-02086 and 33-07018 in excess of what was appurtenant to Sagewillow's property could not be transferred.

In resolving the differences between Mays' and Sagewillow's estimates of historical beneficial use prior to 1989, the Department gave the benefit of any discrepancies between the two to Sagewillow. Thus, based on the unrefuted and credible testimony of Vance Hawley, on the numerous exhibits, including maps and aerial photos, the Department determined that those portions of the Sagewillow Rights[7] appurtenant to lands exceeding 1,412 total acres had been forfeited due to historical nonuse. The Department's conclusions of forfeiture as to each of the

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[6]Where the Grantors wished to clarify their intent, they knew how to do so. *See* "Note" at page 2 of the Warranty Deed expressly describing the Grantor's intent with respect to an irrigation well and an area of land for access, maintenance, etc. R., p. 225.

[7]Exclusive of Right Nos. 33-2091 and 33-2090, which the Department concluded had been completely forfeited.

Sagewillow Rights are supported by clear and convincing evidence, and by the Department's findings of fact, and should be upheld on appeal.

D. Based upon the Department's conclusions of forfeiture, the Department correctly reduced the combined diversion rate for the Sagewillow Rights to 28.24 cfs.

Sagewillow complains that the Department reduced the cumulative diversion rate under its water rights to 28.24 cfs for the irrigation of 1,412 acres. But to do otherwise would violate the duty of water limitations explicit in both Idaho Code § 42-220, and the prior appropriation system. The Department's limitation of the duty of water in a transfer proceeding to one inch per acre was upheld by the Idaho Supreme Court in *Dovel v. Dobson*, 122 Idaho 59, 831 P.2d 527 (1992). Moreover, Sagewillow incorrectly characterizes the record as establishing that more than one inch per acre is required to irrigate the Sagewillow lands. This is simply wishful thinking.

To begin with, the sworn affidavits submitted by the original appropriator in making proof of beneficial use establish that the Knollin Ranch lands can be irrigated with one inch per acre *or less*.[8] The Sagewillow Transfer applications seek no more than an inch to the acre. As Sagewillow's counsel explained to the Department:

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[8] *See* R., pp. 817-822 (sworn depositions stating for Right No. 33-02057 that 1,200 inches is sufficient for 1,400 acres); R., pp. 911-916, 923, 926 (sworn depositions, Report of Engineer and license stating for Right No. 33-02086 that three-quarters of an inch per acre is sufficient); R., pp. 947, 950, 952, 959 (sworn depositions stating for Right 33-2090 that one inch per acre is sufficient and report of field examiner recognizing beneficial use of 296.5 miners inches for 320 acres); R., pp. 982, 985, 987, 991 (sworn depositions stating for Right No. 33-2091 that 1 inch per acre is sufficient and Report of Engineer recognizing beneficial use of 0.68 inches per acre); R., pp. 1161-62, (proof of beneficial use report requesting for Right No. 33-07018, 200 inches for 320 acres and Report of Field Examiner finding beneficial use of one inch per acre).

> There are, of course, transmission losses through the ditch and pond systems, and some transmission loss charge will probably be made by the watermaster for the exchange wells pursuant to the resolution adopted by the water users at the Annual Meeting of District 33 this year. . . Much more water per acre is required for the lands flood irrigated with the open ditch systems than for the lands sprinkled through the closed conveyance systems. However, it seems clear that the entire 2,383 acres can be adequately watered as described with the total of the 46.65 cfs [2,332.5 miners inches] under the six rights.

R., p. 8.

As rebuttal to these admissions Sagewillow cites to a single letter containing the opinion of the local Soil District Conservationist to the effect that 1.25 inches per acre would be required to *flood* irrigate the 163 acres of the Frew Place under water right 33-07018. Petitioner's Opening Brief at 10; R., p. 1094. (Sagewillow now proposes to irrigate the Frew Place lands with sprinklers. *See e.g.*, exhibit to Transfer Application 4224, R., p. 90). Yet, ultimately the Department determined that 1 inch per acre was sufficient. R., p. 1108. In his testimony regarding the irrigation requirements for the Sagewillow property, Dr. Brockway simply observed he did not think one inch per acre would be adequate "in all cases". For example, he observed that the winter "root zone storage" right (33-02133) (which was not seriously contested in this case) would require more than one inch. Dr. Brockway agreed that one inch per acre was certainly adequate for lands under sprinkler (the lions share). Other than with respect to the root zone storage right, Dr. Brockway did not identify any particular lands that would require more than an inch per acre, nor did he state an opinion regarding how much more than one inch such lands might need. Tr.,

Vol. 1, p. 163, l. 1-19. That is hardly sufficient evidence to warrant increasing the duty of water above its originally licensed amounts, or to diverge from the longstanding and statutorily recognized one inch per acre duty of water. I.C. §§ 42-202, 220. The determination of the duty of water is on the fact properly left to the Department. *See Uhrig v. Coffin*, 72 Idaho 271, 274, 240 P.2d 480 (1952). Because all rights appurtenant to more than 1,412 acres had been forfeited, the Department correctly limited the cumulative diversion rate under the rights to 1,412 miners inches (28.24 cfs). That decision should be affirmed by the Court.

II. The Forfeited Sagewillow Rights Were Not Revived Under the Resumption of Use Doctrine.

In light of the clearly established nonuse of the Sagewillow Rights prior to 1989, Sagewillow invokes the resumption of use doctrine as a defense to forfeiture. Sagewillow's reliance on this doctrine, under the instant facts, is misplaced. Sagewillow also attempts to transform the usufruct system of use which includes forfeiture into a system of nonuse of water, in which at end of five years of non-use a water right simply becomes "dormant",[9] and transfixed in an indeterminable state of suspended animation. Under the Dormancy Doctrine Sagewillow has fashioned, the public stands by unable to lay any certain claim to the unused water; unable to maximize its beneficial use.

But Idaho's common law resumption doctrine is not a dormancy doctrine—it provides a narrow exception to abandonment and forfeiture, which in limited

[9]Petitioner's Opening Brief at 11.

circumstances allows an appropriator to reclaim his original priority. The resumption doctrine as recognized in Idaho was stated succinctly in *Carrington v. Crandall*, 65 Idaho 525, 147 P.2d 1009 (1944):

> [F]orfeiture is not effective if, after the five-year period, the original owner or appropriator resumed the use of the water prior to the claim of right by a third party.

The requirements are specific, and have not been satisfied by Sagewillow.

A. Sagewillow did not acquire title to the forfeited water rights.

The resumption of use doctrine does not recognize any form of "tacking" onto the rights of an original appropriator. The reason for this is clear: When rights are abandoned or forfeited, there is no right remaining to be conveyed, received or revived. In other words, Sagewillow could acquire by deed from Slim Hawley only such rights as Slim Hawley held title to at the time. If the water rights or portions thereof had been abandoned or forfeited prior to the 1989 grant to Sagewillow, then they were not Slim's to give. *McDaniel v. Jones*, 235 Kan. 93, 679 P.2d 682 (1984) (a grantee acquires no greater title or interest in the real property conveyed by warranty deed than his grantor had.

This principle is especially applicable in the case of usufruct water rights, which revert to the state and become subject to appropriation once use ceases for the required period. I.C. § 42-222(2). Consequently, a mere recitation in the deed from Venice Hawley to Sagewillow purporting to convey "appurtenant" water rights was ineffective as to those rights or portions of rights that no longer were appurtenant because they previously had been abandoned or forfeited. *See e.g., Stanley v. Shierry*,

322 P.2d 502, 504 (Cal. 1958) (grantor cannot convey by deed what belonged to someone else merely by including it within the legal description); Weil, 1 *Water Rights in the Western States*, *supra* at 607 (once a water right is abandoned, it cannot be revived by a sale, and the sale passes nothing); *Colorado Land & Water Co. v. Rocky Ford Canal, Reserv., Land Loan & Trust Co.*, 3 Colo. App. 545, 34 P. 580 (1893) (where work of appropriator is begun and abandoned, all incipient rights acquired are forfeited and revert to the public, and cannot thereafter be sold or transferred).

Wells Hutchins has summarized the law on this point as follows:

> After a water right has been abandoned, a subsequent sale of the right, whether made in good faith or not, cannot revive the abandoned right. Neither the original appropriator nor any person now attempting to connect himself with the original right can thereafter successfully assert ownership as against other persons holding rights in the water supply (citations omitted).

Wells Hutchins, 2 *Water Rights in the Nineteen Western States*, Miscellaneous Publication No. 1206 at 277 (U.S.D.A. 1977).

Given the law concerning the effect of abandonment on an appropriator's ability to convey title to his appropriation, it is apparent why the Idaho Supreme Court has held in *Carrington* that resumption of use may be affected only by the "original owner or appropriator". Further, as discussed in the next section, because water within the Little Lost River Basin historically has been overappropriated, it is apparent that even Slim Hawley, as the original owner and appropriator could not have lawfully negated the forfeiture of his water rights by a resumption of use.

B. The forfeited water rights, and the right to resume their use, could not be conveyed to Sagewillow because title in them already had vested in the State or junior appropriators.

A water right, once abandoned or forfeited immediately reverts to the state and becomes subject to appropriation once again. I.C. § 42-222(2). As the Idaho Supreme Court held in *Jenkins v. State Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256, 1260 (1982)

> If a water right has indeed been lost through abandonment or forfeiture, the right to use that water reverts to the state and is subject to further appropriation. Other parties may then perfect a water right in those waters. . . If a senior right has been abandoned or forfeited, the priority of the original appropriator is lost, and the junior appropriators move up the ladder of priority.

In other words, junior appropriators from the same source obtained title to those quantities of water that were forfeited by Slim and Venice Hawley long before Sagewillow took delivery of the deed to the Knollin Ranch and attempted to revive them. Particularly in a fully or overappropriated system like the Little Lost River, the ascension of juniors up the ladder of priority (and consequently the extinction of the right to resume use) is immediate.:

> . . . upon cessation and extinction of an appropriative right to divert and use water of a stream as a result of forfeiture, the quantity of water thereby left flowing in the stream instantaneously either (1) ceases to be appropriated water and instead becomes unappropriated water available for reappropriation, or else (2) it becomes part of the supply to which existing junior rights theretofore not fully satisfied immediately attach to the extent of their lawful requirements.

> [I]n overappropriated streams all or part of the water released by consummation of forfeiture does not become unappropriated, because the stream is already *overappropriated*. Therefore, part or all of such released water, as the case may be, instantly and automatically, with no lapse of time, inures to the benefit of junior appropriators who have first claim upon the increment for the purpose of "feeding" their rights up to the maximum to which they are entitled when water is available therefore.

Hutchins, *supra* at 315.

The record demonstrates that Mays and numerous others hold junior, intervening rights in the Little Lost River Basin. For example, Mays' holds water right license nos. 33-02107 and 33-02103, which have priority dates of 1961. These are junior to every Sagewillow Right except Right No. 33-07018, which has a priority date of 1972. Mays Exhibit 22; R., p. 737-738. *See also* Blaine County Canal Company Exhibit 1. These are precisely the intervening rights on the fully appropriated system that must preclude any resumption of use under the common law resumption doctrine. These are the rights that must have moved up the ladder five years after Slim Hawley ceased diverting all or portions of his water rights to beneficial use on the Knollin Ranch. These are the intervening rights which each in some measure have succeeded to title in the forfeited Sagewillow Rights.[10]

[10]As noted by Mays in briefing before the Department, the resumption doctrine may well have had some broad vitality and applicability years ago when there were fewer appropriators on the stream, and fewer consumptive uses of the water. But in a fully appropriated stream, there simply are too many junior rights waiting in line to be "fed" for a forfeited or abandoned right to be revived by resumed use. However, one can easily conceive of situations in Idaho where resumption might be possible. For example, there are many tributaries to the Main and Middle Forks of the Salmon River, where mining and limited irrigation development occurred during the Idaho's early history. The water rights that supported those developments, like the developments themselves, subsequently may have been forfeited or abandoned. But significant quantities of unappropriated water continue to exist on those streams. On many of these there likely have been no subsequent appropriations. It is conceivable that an original appropriator could return to the stream, resume his or her mining or irrigation uses, and revive the original appropriation and

C. Sagewillow did not resume the original use of the forfeited rights.

The resumption of use doctrine as defined by the Idaho Supreme Court shields a water right from forfeiture if the original owner or appropriator "resumed the use of the water" prior to an intervening appropriation. *Carrington, supra,* 65 Idaho at 532. The "use of water" that may be resumed is the "use of water" as originally authorized under the original appropriation.

Once forfeiture has been proven by clear and convincing evidence, the burden was on Sagewillow to prove that it had met the strict requirements of the resumption defense. Part of that proof necessarily would be that Sagewillow resumed the use of the forfeited water rights consistent with their original use. Sagewillow failed to do so.

License 33-02091 authorized diversion of water from a well located north of the Bird Ranch/Homestead Property to irrigate the Homestead Property. Sagewillow's attempts to irrigate the Homestead Property from 1989 to 1992 were through a ditch with its heading on the Little Lost River, using waste water resulting from water diverted and used on the Bird Ranch under Right Nos. 33-2057 and 33-2083. Those efforts resulted only in some wastewater reaching a gully on the Homestead property, and distribution of some of the wastewater onto federal lands southwest of the Homestead Property, which hardly amounts to resumed use, let alone beneficial use.

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priority.

License 33-2090 authorized diversion of water from Well 11 located on the westernmost boundary of Section 1, T7N,R27E, to irrigate lands in Section 1, T7N,R27E and Section 6, T7N,R28E. Sagewillow's alleged resumption of use of this right was based on diversion of water from wells 9, 10 and 1, which was applied to 132 acres in Section 1, T7N,R27E, under pivots 6 and 7 *to which no water rights were appurtenant.*[11] Sagewillow was completely unable to identify what water right use was being resumed, if any, through irrigation of this 132 acres.

Power records of the wells on the Knollin Ranch obtained and analyzed by Mr. Scanlan showed that from 1985 to 1989, the highest annual volume of water pumped from all of the Knollin Ranch wells was approximately 5,183 acre-feet, 337 acre-feet of which was pumped during the winter months. After 1989, annual diversions more than doubled and reached a high of nearly 12,000 acre-feet in 1994. Winter pumping from the wells approached 2,000 acre-feet during 1993. Protestant's Exhibit 16. Sagewillow has suggested that this 2,000 acre-feet of "resumed use" was the exercise of the domestic use authorized under license no. 33-2057. However, there is no evidence that anyone was living on the property during this period, let alone evidence that they or their personal livestock required 2000 acre-feet of water over the winter months.

Given that the resumption doctrine must be construed narrowly so as not to swallow the forfeiture statute and its underlying policies of certainty and maximum beneficial use, the evidence of resumed use presented by Sagewillow is insufficient

[11]This unauthorized use occurred in NE1/4,SW1/4, NW1/4,SE1/4, SW1/4,SE1/4 of Section 1 under pivot 6, and in the SE1/4,SE1/4 of Section 1 under pivot 7.

to overcome the clear evidence of forfeiture. Sagewillow has not satisfied the element of the resumption doctrine that requires the original owner or appropriator to resume the original use of the forfeited right.

Sagewillow never obtained title to the forfeited water rights through the Venice Hawley Deed. The unused water under those rights has been consumed by the intervening rights of Mays and others who continue to rely on its availability to fill their rights an already fully appropriated system. Sagewillow never resumed the original use of the water in any event. At best the record demonstrates a determined, but improper effort to spread as much water across the Knollin Ranch as possible, in the shortest amount of time prior to filing the transfer applications. The resumption doctrine offers Sagewillow no safe harbor, and the Department's determination that Sagewillow had not revived the forfeited rights must be affirmed.

III. Neither Mays nor the Department were estopped from reconsideration of Transfer 3785.

A. Mays is not collaterally estopped from objecting to the Sagewillow transfers on the grounds that Right Nos. 33-2091 and 33-2090 have been forfeited.

Sagewillow argues that Mays was collaterally estopped from challenging the Department's prior approval of Transfer 3785. This is incorrect.

The test for whether a party may be collaterally estopped to litigate an issue has been described by the Idaho Supreme Court:

1. Did the party against whom the earlier decision is asserted have a full and fair opportunity to litigate that issue in the earlier case?

2. Was the issue decided in the prior litigation identical with the one presented in the action in question?
3. Was there a final judgment on the merits?
4. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?

Magic Valley Radiology, P.A. v. Kolouch, 123 Idaho 434, 849 P.2d 107, 112 (1993) (quoting *Anderson v. City of Pocatello*, 112 Idaho 176-183-4, 731 P.2d 171, 178-9 (1987)).

Mays was not a party to Transfer 3785. Moreover, the issues of forfeiture or abandonment were never decided in that matter. The record shows that the application was submitted and summarily approved without any action on the Department's part to investigate the issues of forfeiture or abandonment. Consequently, there was no "adjudication" "on the merits" of the validity of Right No. 33-2091. Transfer 3785 involved the act of processing and approving an application without any inquiry of its merits other than to determine that a license for the water right had been issued previously. Indeed, this cursory processing of Transfer 3785 even failed to satisfy the minimum requirements of 42-222(2) that the Department investigate the issue of forfeiture and abandonment. *See Jenkins, supra*, 103 Idaho 384, 647 P.2d 1256, 1259 (the Director of the Department has jurisdiction to determine the question of abandonment and forfeiture and such *is required as a preliminary step to performance of his statutory duty* in determining whether the proposed transfer would injure other water rights. Emphasis added).

Finally, Sagewillow itself has called into question the validity of Transfer 3785 in the instant transfer proceedings. Sagewillow proposed to ignore the transfer

because its result was to stack Right No. 33-2091 on top of the place of use of Right No. 33-2090. As Sagewillow put it:

> In fact, 2 new wells were drilled in order to obtain sufficient water to operate the pivots, and we need to straighten that whole matter out in this proposed transfer. On Map No. 1, we have ignored the 1992 transfer [3785] because the stacking of water rights, 33-2090 and 33-2091, appears to have been inadvertent and was certainly neither necessary nor intended. We also have 1 extra well unaccounted for on paper.

R., p. 4. In other words, Sagewillow's position going into these transfers was either that the original transfer was a nullity (Sagewillow prepared its applications as if the Transfer 3785 had never occurred), or that it intended to unwind the transfer here. Mays is not estopped from raising the issue of forfeiture or abandonment of right 33-2091 because the issue was never decided in Transfer 3785, and because Sagewillow itself made the validity of that transfer an issue here.

Even if Sagewillow could make out the essential elements of collateral estoppel, including a final judgment on the merits, that doctrine does not bar the voidance of Transfer 3785 now, because a specific exception to collateral estoppel applies to the facts here. The Second Restatement delineates the exceptions to collateral estoppel.[12]

> Although an issue is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, relitigation of the issue in a subsequent action between the parties is not precluded in the following circumstances:

[12]Idaho has adopted the Restatement (2d) Judgments (1982) treatment of issue and claim preclusion. *Aldape v. Akins*, 105 Idaho 254, 668 P.2d 130 (Idaho App. 1983).

> (5) There is a clear and convincing need for a new determination of the issue (a) because of the *potential adverse impact of the determination on the public interest or the interests of persons not themselves parties in the initial action*, (b) because it was not sufficiently foreseeable at the time of the initial action that the issue would arise in the context of a subsequent action, or (c) because the party sought to be precluded, as a result of the conduct of his adversary or other special circumstances, did not have an adequate opportunity or incentive to obtain a full and fair adjudication in the initial action.

Restatement (Second) of Judgments § 28 (emphasis added).

The public interest is harmed where a forfeited or abandoned water right is permitted to be revived after other rights in the source have accrued. That is the reason the common law resumption doctrine, and later the statutory resumption provision, were worded to protect intervening rights. The harm to the public that would result from Transfer 3785 outweighs even the policy against relitigating issues already decided. *See e.g., State v. Gusman*, 125 Idaho 810, 874 P.2d 1117 (Idaho App. 1993). In *Gusman*, Gusman was arrested for driving under the influence. She refused to submit to an alcohol concentration test and her license was suspended by the Idaho Department of Transportation. A hearing was held concerning the administrative suspension and the magistrate found that Gusman was not the driver of the car, and that there had been no probable cause to stop the car. *Gusman*, 874 P.2d at 1118.

At the criminal trial Gusman sought to dismiss the government's case based on the doctrine of collateral estoppel. Gusman argued that the issues concerning the driver's identity and probable cause already had been determined. The court held

that collateral estoppel did not bar the litigation of the state's case because

> Even though we might conclude that the five elements enumerated in *Anderson* and quoted in *Powell* are present here, we nevertheless decline to apply collateral estoppel because to do so would undermine the legislative purpose and effect of the existing statutory scheme. As the Oregon Supreme Court has stated:
>
> [The] principles of collateral estoppel and the other principles of *res judicata* are not to be applied in the abstract; they have validity only if their application will carry out the policy which these principles were designed to express. It is necessary, therefore, to examine ... the nature of the proceedings ... and to determine what ends would be served by permitting or denying further litigation on the issue [sought to be precluded].

Gusman, 874 P.2d at 1120 (quoting *Griffin v. City of Roseburg*, 255 Or. 103, 464 P.2d 691, 693 (1970)). *See also Dana's Housekeeping, Inc. v. Department of Labor & Industr.*, 886 P.2d 1147, 1154 (Ct.App.Wash. 1995) ("While administrative agency adjudications may be accorded preclusive effect in subsequent litigation, issues will not be precluded when the benefits of finality are outweighed by adverse impact on public interest."); Restatement (Second) of Judgments § 28(5)(a).

Accordingly, because the public interest in protecting intervening water rights outweighs any benefit of finality in this case, collateral estoppel does not apply to prohibit the voiding of Transfer 3785.

B. Equitable Estoppel Does not Prohibit the Voiding of Transfer 3785.

Equitable estoppel does not prohibit the voiding of Transfer 3785 because (1) equitable estoppel can be applied to a government agency only where required by

justice and fair play *and* where there is no damage to the public interest, and (2) even if equitable estoppel might be applicable to a state agency such as the Department, Sagewillow has failed to establish all the elements for such relief.

As always, one who invokes equity must do so with clean hands; justice and fair play require it. What justice would there be in rewarding Sagewillow for submitting an application that was incomplete as to the critical issue of beneficial use? Can one who developed and irrigated lands without the required approvals argue that equity should reward him? On the facts, Sagewillow must concede that over 130 acres of land under two different pivots in Section 1, T7N, R27E have been irrigated since 1991, without the benefit of any appurtenant water right whatsoever. How should the benefits Sagewillow continues to derive from this unauthorized use weigh in the equity scales? Does it comport with justice and fair play for Sagewillow to contend that Transfer 3785 should be treated in these transfers as if it never occurred, yet object when the Department agrees? Sagewillow has presented no facts or argument that would compel the Department, or a court, to ignore the public policies that Idaho's water code was designed to serve. The equities in this case all weigh in favor of the public and the Department's Amended Recommended Order.

1. Equitable Estoppel Should Not Be Applied Against the Department.

Although Sagewillow has correctly noted in previous briefing that equitable estoppel "*can* apply to a government agency acting in its sovereign capacity," R., p. 669, the cases it cites in support of that point actually establish that the doctrine

is to be applied against a government only in exceptional cases. For example, Sagewillow cites *Brandt v. State*, 126 Idaho 101, 878 P.2d 800 (Idaho App. 1994), which provides that "[e]stoppel, which is an equitable doctrine, cannot ordinarily be applied to a governmental agency acting in its sovereign capacity." 126 Idaho at 105, 878 P.2d at 804. And while the *Brandt* decision did discuss applying equitable estoppel to a governmental agency, the court never actually reached the merits of that issue because *Brandt* did not raise the issue before the magistrate. Moreover, the equitable estoppel discussion in *Brandt* confirms how rare a situation it would be for estoppel to apply to a governmental agency:

> *'[W]here justice and fair play require it'* estoppel will be applied against the government, even when the government acts in its sovereign capacity *if the effects of estoppel do not unduly damage the public interest.*

Brandt, 126 Idaho at 105 (emphasis added, quoting *Johnson v. Williford*, 682 F.2d 868 (9th Cir. 1982)). Thus, the estoppel must not unduly damage the public interest, and justice and fair play must require its application. Given the public interest considerations recognized by the Department's Final Order, and the balance of equities here, equitable estoppel is not a defense that is available to Sagewillow.

Sagewillow also points to *Boise City v. Sinsel*, 72 Idaho 329, 241 P.2d 173 (1952) to support its theory that equitable estoppel should apply in this case. Petitioner's Opening Brief at 33. But *Boise City* indicates only that equitable estoppel *may* be invoked against a municipality, and then, only under exceptional circumstances. In *Boise City*, the City granted Sinsel a permit to build a structure which encroached on Front street in 1927. In 1949 the City Council canceled and

revoked the permit and sued for an injunction against Sinsel. The Supreme Court refused to apply equitable estoppel against the City, stating,

> In this jurisdiction we have recognized that equitable estoppel will lie against a municipality but that *it must be invoked with caution and only in exceptional cases* and that *its application is the exception and not the rule.*

Boise City, 72 Idaho at 338 (emphasis added).

Sagewillow has failed to show that this is such an "exceptional case" that it would warrant the application of equitable estoppel to the Department. The Department must be able to void those of its prior decisions governing use of the State's water that subsequently are shown to have been in error and to be adverse to the rights of others.

2. Sagewillow has Failed to Establish the Elements of Equitable Estoppel

Sagewillow also cannot establish the elements of equitable estoppel under the facts of this case. The elements of equitable estoppel are as follows:

> (1) a false representation or concealment of a material fact with actual or constructive knowledge of the truth; (2) the party asserting estoppel did not know or could not have discovered the truth; (3) the false representation or concealment was made with the intent that it be relied upon; and (4) the person to whom the representation was made or from whom the facts were concealed relied and acted upon the representation or concealment to his prejudice.

Young v. Idaho Dept. of Law Enforcement, 123 Idaho 870, 853 P.2d 615, 619 (Idaho App. 1993). In *Young*, the plaintiffs sought to estop the Department of Law Enforcement from denying their liquor license after they failed to comply with the

Department's notice procedures. The court could not reach the question of whether estoppel could be applied against the government agency because the plaintiffs did "not allege that the Department made any false statements or concealed material facts." *Young*, 853 P.2d at 620. Here, Sagewillow has likewise failed to assert that the Department engaged in misrepresentation or concealed facts which would permit equitable estoppel to be applied. Moreover, if any "concealment" is evident by the facts in this case, it could be attributable only to Sagewillow.

3. Quasi-Estoppel Does Not Apply to Prohibit the Voiding of Transfer 3785.

Sagewillow also contends that the doctrine of quasi-estoppel prohibits the Department from changing its position and voiding Transfer 3785. Petitioner's Opening Brief at 34. Again, Sagewillow's argument fails to address two elements of the doctrine of quasi-estoppel. First, the person to be estopped must have had full knowledge of the facts, *see, KTVB, Inc. v. Boise City*, 94 Idaho 279, 281, 486 P.2d 992, 994 (1971); and *Young, supra*, 853 P.2d at 620, and second, the doctrine applies only when it would be unconscionable to allow a party to assert a right which is inconsistent with a prior position. *See Mitchell v. Zilog, Inc.*, 125 Idaho 709, 874 P.2d 520 (1994) (citing *KTVB, supra*); *see also Willig v. Idaho Department of Health and Welfare*, 127 Idaho 259, 899 P.2d 969 (1995) (a showing of hardship and not "irreparable harm," is insufficient; unconscionability is required). "Unconscionable Conduct" has been defined as "conduct that is monstrously harsh and shocking to the conscience." Black's Law Dictionary (4th ed., West Publishing Co., 1968). Here,

Sagewillow has not alleged and cannot establish that voiding Transfer 3785 amounts to unconscionable conduct. Sagewillow argues that it has suffered hardship because it expended resources developing sprinklers. However, these funds were expended prior to the approval of Transfer 3785. Moreover, Sagewillow received the benefit of crops raised under the sprinklers for four years to the detriment of Mays and other water right holders who were adversely impacted by Sagewillow's use of the water.

Sagewillow also cites to *Alder v. Mountain States Telephone & Telegraph Co.*, 92 Idaho 506, 446 P.2d 628 (1968) in support of its quasi-estoppel argument. But *Alder* is authority for the proposition that "the party relying upon the acts of the party who is to be estopped must be 'excusably ignorant of the true facts.'" *Alder*, 446 P.2d at 633 (citation omitted). The testimony shows that if Sagewillow's principal, Mr. Dumke, did not have all the facts when he submitted the various Sagewillow applications, including the application for Transfer 3785, he could blame only himself or his employees, whom he testified he relied upon. Sagewillow's argument that *it* had no independent duty to inquire into the beneficial use of its own water rights at or prior to the time it purchased them or attempted to transfer them, must be rejected. Sagewillow was not "excusably ignorant" of the true facts concerning the non-use of its own claimed water rights. Sagewillow also has not demonstrated how voiding the transfer would be unconscionable. Accordingly, the doctrine of quasi-estoppel is inapplicable in this case.

C. The Waters of the Little Lost River Basin are a Public Resource which the Department Must Manage in the Public's Interest.

There can be no doubt that the Department's decisions concerning the use of the State's water resources are imbued with the public interest and trust. Consequently, the Department's decision regarding the transfer of Sagewillow's water rights is subject to correction if it later is found that the decision conflicted with the public interest when it was made. The determination of the public interest in the allocation and administration of the State's water is a duty vested in the Department. *See e.g.*, I.C. §§ 42-203 and 42-222. *See also Shokal v. Dunn*, 109 Idaho 330, 207 P.2d 441 (1985). The importance of the State's trust responsibility over public resources such as water is the basis for the limitations on the application of the doctrines of *res judicata*, collateral estoppel, and equitable estoppel against the government, and one of the reasons that the Department's decision in this case is not subject to those doctrines.

Thus, even if collateral estoppel or *res judicata* otherwise might be applicable to the Department's decision to void Transfer 3785, the Department's responsibility to the public gives the Department the authority to void the transfer. *See Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc.*, 671 P.2d 1085, 1094 (Idaho 1983) (lease of boat dock area on Lake Coeur d'Alene permissible, but Department later could determine that the conveyance no longer is compatible with the public trust imposed on the conveyance). The Court in *Kootenai* added that

> [t]he public trust doctrine takes precedent even over vested water rights. Grants, even if purporting to be in fee simple, are given subject to the

> trust and to action by the state necessary to fulfill its trust responsibilities. Grants to individuals of public trust resources will be construed as given subject to the public trust doctrine unless the legislature explicitly provides otherwise.

Kootenai, 671 P.2d at 1094 (emphasis added). Therefore, under the rule adopted by the Idaho Supreme Court in *Kootenai*, the Department can void the transfer if it finds that its initial approval was and remains inconsistent with the public trust.

The record also establishes that if the forfeited Sagewillow Rights could be revived by resumed use, there would be less water available in the hydrologic system to satisfy these junior rights *and many senior rights as well.* The resulting injury to other water rights occurs because of the increased consumptive use of the water that would result if irrigation was increased from 1,412 acres to 2,383 acres. Mr. Scanlan's opinion was that authorizing full diversion and use under the Sagewillow Rights would increase consumptive use (and decrease water available to the hydrologic system) by approximately 1,809 acre-feet per year. Tr., Vol. 2, p. 77, l. 2-15; Mays Exhibit 20. Mr. Scanlan also estimated that the resulting reduction in stream flows in the Little Lost River below the Knollin Ranch would be between 2.5 cfs and 5 cfs. Tr., Vol. 2, p. 79, l. 13-18; p. 82, l. 5-14. Dr. Brockway agreed that such impacts would occur, but he had no opinion on what their extent. Tr., Vol. 1, p. 148, l. 6 - p. 149, l. 18. These impacts are the kind of impacts on the public that the Department is required to prevent under I.C. § 42-222(2).

IV. The Sagewillow Rights are subject to partial forfeiture under I.C. § 42-222(2) to the extent of partial non-use for the statutory period.

The Sagewillow Rights are subject to forfeiture for non-use, in whole or in part, to the extent they have not been used for any consecutive five-year period. Sagewillow is correct that the partial forfeiture issue currently is pending before the Idaho Supreme Court, on appeal from the order of the SRBA District Court in Basinwide Issue 10. However, a decision by the SRBA Court that a water right is preserved in its entirety if any portion continues to be used is *not* binding precedent.

Moreover, the SRBA Court's decision runs contrary to the plain language of I.C. § 42-222(2) and the overarching policy of beneficial use enunciated in Idaho's Constitution. Idaho Const., art. XV, § 3 (the right to divert and appropriate the unappropriated waters of any natural stream *to beneficial uses*, shall never be denied). It also is contrary to the decisions of the Idaho Supreme Court in *Albrethsen v. Wood River Land Co.*, 40 Idaho 49, 231 P. 418 (1924), *Dovel v. Dobson*, 122 Idaho 59, 831 P.2d 527 (1992), *Olson v. Bedke*, 97 Idaho 825, 555 P.2d 156 (1976) and *Graham v. Leek*, 65 Idaho 279, 144 P.2d 475 (1944). The District Court for the Fourth Judicial District has affirmed the Department's determination of partial forfeiture of water rights under I.C. § 42-222(2). *Enterprise Canal Co. v. Idaho Dept. of Water Resources, et al.*, Memorandum Decision, Case No. 96371 (Fourth Judicial District 1993).

The issue of partial forfeiture has been set for determination on an expedited basis. Briefing is completed and argument is set for February 12, 1996.

CONCLUSION

For the foregoing reasons, the Department's Final Order in this matter should be affirmed in all respects.

RESPECTFULLY SUBMITTED this 5th day of December, 1996.

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 1996, I caused to be served a true and correct copy of the foregoing to each of the persons named below by the method indicated below each of their names.

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	until about 12/87 & worked the land. These lands are the subject of the transfer.	
Vince Hawley	In the 1970 – 78 time - helped move water on the property & is very familiar w/ the location of ditches, the wells & the lands irrigated. Helped w/ maintenance of wells, cleaned ditches.	**Vol. 2** 4/23 – 6/1
Vince Hawley	1978 – 81 – he was involved in the management & operations of the irrigation. He harvested hay of lands.	**Vol. 2** 6/2 - 8
Vince Hawley	Bird R irrigation – flood irrigated. Main feeder ditch from the NW corner where it splits. The ASCS estimate of 297 irrigated acres is reasonable to him.	**Vol. 2** 7/22 – 8/14
Vince Hawley	Homestead property – to the E of Bird R. They made no attempt to irrigate this land. Has a low spot and waste water from Bird R. flowed onto 5-10 acres of property due to topography.	**Vol. 2** 8/18 – 9/12
Vince Hawley	Well on homestead property – there is a well in the NW corner there was diesel powered but doesn't recall the well every being used. He didn't use it when he leased the place due to the expense. His memory is that well was in disrepair when he moved there in 1970.	**Vol. 2** 9/17 – 20/13
Vince Hawley	Thinks parents received patent for homestead in 1966. would have to have been irrigated while obtaining patent & not sure if irrigated after but was not irrigated in 1970. doubts that it was irrigated more than what was required to get patent due to condition of ditches.	**Vol. 2** 10/14 – 11/16
Vince Hawley	Re why parents would drill well on homestead & not use it – the property was used as dry range, seeded w/ crested wheat grass. Father used as fenced pasture so he could put cattle there in the spring before the BLM license was effective.	**Vol. 2** 11/23 – 12/11
Vince Hawley	Bird R. was watered 1x/ season – early in irr season. Doesn't ever remember it be watered 2x because it was rough to	**Vol. 2** 12/12 – 13/14

State of Idaho
DEPARTMENT OF WATER RESOURCES
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EASTERN REGION

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

	concerned that it they took water out of	
	the river to fill ditch, it would dry up the river. They hayed property. Alfalfa but mostly grass. Yields were poor.	
Vince Hawley	Did not harvest hay from the homestead. They never had equipment there.	**Vol. 2** 13/15 - 17
Vince Hawley	Knollin R. – mortgage co. had it for many years. His father leased it & then bought land only because mortgage co. had sold the surface water separately. Father then drilled 9 wells on this land to irrigate. He operated the wells to irrigate when he lived/ leased land.	**Vol. 2** 14/16 – 17/6
Vince Hawley	The big well in the NW, 75 hp – he only used it part if 1 season when he leased land. Father didn't like using it because it was not economical. Doesn't know if it was used when he lived on the property but knows the well was operational.	**Vol. 2** 17/7 - 25
Vince Hawley	[VLM note – for many pages, Vince describes where the irrigation was and what lands were used for. Comes up with a total # of acres irrigations of 1176 which is close to the 1200 that he seems to remember from past years.]	**Vol. 2** Pages 18 – 28/16
Vince Hawley	Area N of the east/west access road & N of the 5 wells: land was homesteaded by aunt & uncle. Was proved up the same as Bird R. – by irrigation. The large well & ditches were to irrigate land but doesn't remember it ever being irrigated. Ran livestock here.	**Vol. 2** 28/17 – 32/9
Vince Hawley	Main Lost R. diversion worked early winter & spring but not in mid-winter, would freeze dry. Main Spring Cr. diversion worked most of the winter – purpose was winter storage. Pond always in disrepair & dikes were washed out so water diverted from L. Lost would quickly fill pond, run out and freeze back. Marginal benefit to land.	**Vol. 2** 32/13 – 34/1
Vince Hawley	More of a benefit from Spring Cr. diversion. Due to topography of land, did not run into gully immediately. He	**Vol. 2** 34/1 - 5

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	Remembers selling a lot of this land for use of water and ice.	
Vince Hawley	There was never an exchange of water between his parents' home place 10 miles away & the Hawley place. He dad felt strongly that they could not transfer water down the valley.	**Vol. 2** 34/21 – 35/22
Vince Hawley	Lived on ranch full time from 1970 – 1981. leased it in 78, 79, 80. has not been too aware of ranch operations since 1989.	**Vol. 2** 35/25 – 36/24
Vince Hawley	Bird R. – [W side of read] harvested grass w/ alfalfa. [Homestead - E side of road] didn't harvest hay. Only used as pasture	**Vol. 2** 36/25 – 37/14
Vince Hawley	Areas that benefited from sub irrigation was large pasture in heart of Knollin R. Can't remember # of acres. Includes area where springs begin to appear. This area benefited from winter water diversions & other irrigation.	**Vol. 2** 37/15 – 38/22
Vince Hawley	The ditches that are all over, even on property they did not irrigate, predate 1970. thinks the ditches N of the east/west access road were dug by his father while obtaining title to the land.	**Vol. 2** 38/23 – 39/21
Vince Hawley	Doesn't know how his father came to own the property that his aunt & uncle homesteaded. The SW corner w/ the spring had ditches and looked like it had been irrigated	**Vol. 2** 39/22 – 40/11
Vince Hawley	He used the big ditch on the Bird R. along the N property boundary. There were ditches that could provide water to the N part of the homestead. Not aware of the ditch from Bird R to the homestead ever being used.	**Vol. 2**
Don Isham	Farmer, rancher, has been Blaine Co CC director for 20 of past 30 years. Knollin deeded land to 1st trust in 1942 though he had lost the ranch in the 20s 0r 30s. BCCC bought Knollin R. in 11/42. in 1943, BCCC transferred water from Knollin R to BCCC. Sold land to LR Hawley in late 40s. re licenses 33-69, 71, 2007 w/ priority dates o f1908 &	**Vol. 2** 132/21 – 135/6

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Terry Scanlon	Expert. His knowledge of the little lost is based on a literature review, interviews with residents & irrigators & a site inspection	Vol 2 45/20- 46/2
Terry Scanlon	Distinguishing between irrigated & sub irrigated land is a judgment call.	61/18 – 25
Terry Scanlon	Did not find evidence of irrigation on lands covered by licenses 2090 & 2091.	69/14 - 19
Terry Scanlon	Before transfer, irrigated acres were 1412. after transfer, irrigated acres were 2383. transfer increases consumptive use from about 1500 to 1809. this increase would reduce surface flows to the L Lost downstreams form the rach, which would reduce the recharge t the aquifer downstream ffrom ranch.	76/20- 78/5

Re: forfeiture/ injury		
Witness	**Testimony**	**Page/line[s]**
Dumke	Re trx he signed – [VLM note: he is not familiar enough w/ his property to answer questions re his trx & rt #s.] He relied on his experts and Pancheri re the forfeiture question on the trx applications.	**vol.1** 27/3 -29/20, 33/19- 37/2
Pancheri	Re Bird Ranch: In 1989, the big pond was washed out and the 1st pond was partially washed out – hard to hold water.	**vol.1** 49/15-21
Pancheri	Bird Ranch: Told Ed it was the poorest ground he had. Should move the water. Ditches all over – would be hard to irrigate due to the ditches	**vol.1** 53/5-17
Pancheri	Bird Ranch: most of the ponds were washed out when they bought it & had to be reestablished	**vol.1** 59/2-12
Andreason	3 places where surface water can be	**vol.1**

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	Taken on exchange on the Knollin R – Wells 4,5, 11. Well # 11 – 2 places of exchange, & the 3rd in the Bird R diversion	188/13 190/13
Andreason	Has been water master 11 years	**vol.1** 190/14 - 16

Re: resumption of use/injury		
Witness	**Testimony**	**Page/line[s]**
Mays	Has 11 surface water rts from the Hartman Diversion [5-7 mi. below Knollin Ranch] w/ p. dates from 9/1/1879 – 6/1/1991	**vol.1** 175/16 –23
Mays	Has groundwater rts - domestic & 2 rts. From a well that is for exchange below Knollin & below Blaine Diversion.	**vol.1** 175/24 – 173/ 22
Mays	Have had bad water years since 1987. last year was the worst. He thinks drought would certainly affect both gw and river flows.	**vol.1** 184/23 – 185/9
Isham	Due to drought, has noticed surface [water?] irrigated project lands has decreased in past 10 years. Groundwater has decreased dramatically in past 5 years, especially in the wells close to the river. Wells close to canals draw water from canals due to the porosity of the land. Thinks the aquifer	**Vol. 2** 135/7 – 136/14

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	surface irrigation.	
Isham EASTERN REGION	In the past 20 - 30 years, he has seen the shallow aquifer [well about 200'] has completely gone down due to wells pumping above them in drought. - conditions.	**Vol. 2** 136/15 – 137/8
Isham	Agrees w/ Foster that there has been a drought or significant reduction in precipitation for past 8 years except for 1993.	**Vol. 2** 139/17 - 20
Woody	BCCC witness. Farmer/rancher. Has 4 wells. Water has been terrible last few years. Surface water – last year was worse since 1937. groundwater is slowly depleting. Last year had to change nozzles down 7 shut a ¼ mile wheel line. Down to 12 lbs. pressure. Neighbors are shutting off lines. No water coming down the canal.	**Vol. 2** 141/ 1 - 19
Woody	He has read the letters that are Exh 1 and is sure there that there are more than the 14 water users having problems – everyone is having the same problem. The letters of the 14 water users covers 37 irrigation wells and 9 domestic wells. Estimates that 90% of the users who wrote the letters in Exh 1 are jr. to a 1960 water rts	**Vol. 2** 141/20 – 144/1
Woody	The changes in the amount of available water to him and the impacts on stream flows makes him very concerned about water management in the Little Lost R and the level of scrutiny transfers receive.	**Vol. 2** 144/2 - 10
Andreason	Does not have enough information to make a recommendation on whether the transfers will cause injury.	**Vol. 2** 160/25 - 16
Andreason	Concerned about the surface water rights being included in the transfers. It was his understanding that they belonged to BCCC. He had never used them.	**Vol. 2** 162/6 – 163/18
Andreason	During the last water season below Knollin R., everything later that the 1879	**Vol. 2** 163/24 –

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	rights were cut. Some of the 1870's rights were cut.	164/15
Andreason	He regulated wells w/ priority dates jr. to the surface rts he was cutting. These were only the 7 exchange wells.	**Vol. 2** 164/16 - 24
Andreason	He does not regulate/curtail the wells involved in the Sagewillow transfers to satisfy senior rts if flow decreased below Knollin R.	**Vol. 2** 164/25 – 165/4
Andreason	Since he has been water master, last year was the worst water year, then 92, then 88. There have been normal water years since he as been water master. During normal water years he cuts down to 1893 –1893 is a good right in a normal water year but cuts after that.	**Vol. 2**165/10 – 166/ 11
Scanlon	His report postulated that pumping the Knollin R wells would have an impact on stream flow. Based on estimates of aquifer parameters based on tests from some of the wells. Illustrated that wells close to the river would be affected sooner that pumping the wells farther away from the river.	51/20 – 52/22
Scanlon		

Witness	Testimony	Page/line[s]

Mays defense focuses on the groundwater rts. Not the surface rts.
Resumption of use
a. can't be done cuz rights were forfeited
b. Approval of transfers not in the public interest
I – water in short supply – causes injury
Ii - will affect relative priorities - injury

Q All right. Now I would like you to show us -- describe your understanding of how this property was irrigated, and I'm interested in the areas that were flood irrigated during the time that you're familiar with the property.

A Okay.

Q If you could do that I would --

A Well, we --

Q -- feel free to use the exhibit.

A -- we had no sprinklers so anything that we irrigated would have been flood irrigated.

Q All right.

A Would you like me to detail the various lands?

Q Yes, and what I would like you to show us on the map are the lands that based on your knowledge and the times -- the years that you were living on or working on this Knollin Ranch, the property that you are aware of that were flood irrigated?

A Okay. As we travel the east west access road into the ranch we reach a point here where now we have irrigated lands on both sides of the road and at that time there was a cattle guard there, and as we continue on west the first land off to our right to the north was referred to as the cattle guard piece. And this would have been those lands that lie west -- or excuse me -- lie east of the river --

Q I'm going to ask you -- I'm just thinking about what

might show up better, I'm going to give you a green --
A Okay.
Q -- pen instead so that we can see that. And if you can just outline the areas for us.
A Okay. Those lands lie east of the river, west and north of the access road into the ranch. And we referred to that as the cattle guard piece, and that was 70 acres.
Q Now when you say 70 acres, how do you come up with that number?
A The acreage figures I'm going to use were derived from information obtained from ASCS data.
Q All right. Have you reviewed the ASCS data that -- of the acreages?
A Yes, I have.
Q Do those reflect -- tell me how those match up with your recollection?
A I was very surprised how close they came to my recollection of the way things were. I believe the ASCS data to be very accurate.
Q All right.
A Shall we continue?
Q Go ahead and proceed, thank you.
A Okay. Well, we've taken care of the lands on --
MR. FOSTER: Excuse me, just --
MR. CREAMER: Just a minute. Just a minute.

MR. FOSTER: May I ask one more question in aid of a possible objection?

MR. SPACKMAN: Yes.

QUESTIONS IN AID OF OBJECTION

BY MR. FOSTER:

Q Mr. Hawley, as you testify, are you testifying from your own knowledge and estimates or are you testifying from records, ASCS records?

A Working the land I didn't have the means to measure acreage. I didn't go out with a tape measure and measure acreage. I have to rely on people who have the instruments to do that. Those figures fit my recollection of the lands as we worked them.

Q Is your testimony then based on a recent review of ASCS records?

A That's correct. And my recollection of the way things were during the period of time that I was there.

Q Oh, okay. All right.

MR. FOSTER: I don't have an objection.

THE WITNESS: Okay.

MR. SPACKMAN: Thank you. Continue, Mr. Creamer. Or Mr. Hawley.

DIRECT EXAMINATION (Continued)

BY MR. CREAMER:

Q Mr. Hawley, you could continue with your --

A Okay. The home where I lived was right around here, wherever this road crosses the river, and I believe it's right here. Where the access road crosses the river, immediately behind the -- we call this piece here behind the house and it is 20 acres. To the north of it --

Q Can you draw a boundary around that --

A Certainly, I'll --

Q -- the areas that we're going to include within the 20 acres?

A Actually -- whoop. This is a fairly recent photo, isn't it? Do you know the --

Q This is 1987, Mr. Hawley.

A Yes, okay. Let's draw that boundary right across there, and refer to this as behind the house. This acreage here is what I referred to as the junk yard piece of ground. A piece of ground that when I first leased the place was just rough brush and was not farmed and we went ahead and broke that out. The acreage in there would have been no more than 13 acres. And I say no more than there's a little question in my mind whether the ASCS photos also include some rough ground that actually go down to a -- in a gully and just barely across the gully up to the river, but at any rate, up to 13 acres.

Q And 13 -- up to 13 acres --

A Yes.

Q -- is your recollection of how many acres would have been

irrigated?

A Right. Right.

Q All right.

A Just south of the house we had a little pasture where we kept a milk cow, and that is eight acres. The next piece of ground as we -- shall we continue on around?

Q Yes, please.

A Okay. There were some hay fields on the southwest portion of the Knollin Ranch. The first we referred to as the southwest hay field, and it is in the south, southwest quadrant of the ranch and I'll draw the boundary to that. And that is 68 acres. Now there's a companion hay field that lie just a little bit further south, and that is 16 acres. And that will take care of the lands that lie on the west side of the river. Shall we continue on?

Q Please.

A Okay. The next piece of ground, or next that we might consider were pieces of ground --

MR. SPACKMAN: Just a moment, Mr. Hawley.

(Tape Change)

MR. SPACKMAN: We're recording again. I'm sorry.

THE WITNESS: Okay. Okay, I'll continue and I'll go down here into an area that we called the upper shed field and this map here shows the farmed ground outline. And that's the upper shed. The shed field continued on across the ditch into

what I referred to as the middle shed field. The river being the south boundary and the fence between the irrigated lands and the sub-irrigated land, and we called that the middle shed field. And then lastly would have been the lower shed field. It would have gone up to what is now the property line between Phillips and Sage Willow.

Q That property line is on the sections between Sections 18 and 17?

A That is correct.

Q All right.

A Uh-huh. And once again follows the boundary between the irrigated lands and the subbed pasture, and with the river being the south boundary. All of those shed fields together, upper, middle, and lower are 208 in acreage.

The thing next we can -- now everything that we've talked about up till this time was -- let's take one more piece of ground, then we'll make a division. We'll talk about the Brown field. It lies on the far eastern boundary of the Knollin Ranch, near the county main paved county access road, and parts of it show up on this map till we get to the point here where there's a missing piece. But I will outline it the best I can having part of it missing here. There are dry arid rangelands to the east and the boundary of Big Spring Creek. To the west there's a large gully here where one of the old dry creek beds run in, so there's a piece of ground here

that's not usable. And back to the beginning that piece of ground is 64 acres.

Okay, everything that we've talk about up till now was irrigated and was farmed for hay production except this little pasture south of the house, which I mentioned we kept the milk cow in there.

Q But that was irrigated, is that correct?

A Yes, that was also irrigated but with the exception of this eight acres the rest of these grounds that we've talked about we took hay off of. This piece down here kind of got the poor --

Q Which piece are you talking about now?

A The lower shed field. The south -- most southeast corner of the Knollin Ranch. We didn't always get it watered real well. Sometimes we would get a hay crop off it and sometimes all we would get off it was pasture.

Q And what was the reason? Was that because of the availability of water or for what reason?

A Yeah, mostly availability, sometimes we just wouldn't get that far with the water.

Q All right.

A Okay. Well, continuing on with the deeded -- or with the irrigated ground the access -- the east west access road that runs into the ranch, to the south of it there were two large irrigated pastures. And I'll do the best I can with this map

to show the boundary. But there was fence that came -- well, not a fence but a ditch that came around here approximately like this, and ran through like this, jogged down there. And now at a point here you'll see on this map where there are several rough jogs in the fence and that's because that -- I asked my father why he fenced it that way and he said that's because that's the way the land was, the subbed pasture to the south and the farmable pasture to the north and back along the access road.

There are -- in this lands that I've just drawn the large circle around, there were a couple of dry pieces and they show up on this aerial fairly well. And I'll exclude those, there's a couple of little pieces along through here that were dry. Now this was cross fenced into two separate pastures, and the cross fence I believe ran down through here. The west -- what's called the west steer pasture, and it was 1906 acres.

Q It was called the west what pasture?

A The west steer pasture.

Q Steer, all right.

A The east was call the east steer pasture, and it was 216. Now those two pieces of ground to my recollection were never farmed for production of hay, but the ditches were cleaned, we had tractors out there cleaning the ditches, and we did irrigate it.

Q All right. We're adding up those numbers here to see what we come up with and I believe it's about 1,158 acres --
A Okay, my figure on --
Q -- including the Bird Ranch.
A -- adding that was 1,176.
Q Okay. I'm sorry?
A My figures on adding that was 1,176.
Q 1,176. And that includes the area that the 297 acres that you've shown on the Bird Ranch?
A That's correct.
Q Well, we get 1,176 now too. That's comforting.
A Good.
Q So we've come up with 1,176 acres of ground that you recall having flood irrigated during the years that you were on the property. Does 1,176 when we come up with that number, does that sound -- how does that reflect with your memory?
A When I was first asked if I would have any recollection of how lands were managed there, the figure that I had remembered from the years before I did any of the -- any of the review was 1,200 acres. So 1,176 is very close.
Q All right. And how often was -- were these lands irrigated? We've talked about the Bird Ranch how that was irrigated, were these lands irrigated differently than the Bird Ranch?
A Well, I've already made a comment that the lower shed

field sometimes wouldn't get irrigated at all, if it did get irrigated it was irrigated once. Probably the fields that got the best attention, the most attention and got irrigated twice would have been the cattle guard field, which we've referred to as being on the east side of the river and north to the access road. The piece of ground behind the house would have gotten good attention and the southwest hay fields, both the southwest and the separate piece of hay fields would have received good attention being irrigated twice.

Q If we look in the south -- you're talking about the southwest fields and you've indicated there was 68 acres of ground there, if you look on the map in the southwest. To the extreme southwest corner there is some ground that you didn't include, but there's been testimony that there's a ditch that runs south along the west boundary and then turns and runs east along the south boundary. And Mr. Pancheri testified yesterday that there had been some irrigation in there at -- can that land in fact be irrigated from those ditches?

A Yes, it could be. The main water that -- the main ditch that transports water to the southwest hay fields does run along the boundary of the property and there are old ditch courses out in here where you can see that at one time somebody irrigated that land. Of course all the land was irrigated at one time in its distant past, and it could be irrigated from that ditch.

Q During the years that you were on the property, was there any attempt made to harvest hay off of that ground?
A No. That --
Q The southwest.
A -- that ground was a grass, it could well have been crested wheat, I'm not sure. And there's a spring that sits in that piece of ground kind of to the north -- northeast corner of it. And cattle will trail in there a lot off of the BLM range to water there. So the grass up there is poor, it's full of cow trails, and no, no effort was made to harvest anything there.
Q And did you make any attempt or are you aware of any attempt during the years you were on the property to irrigate that ground?
A No, I don't have any recollection of trying to irrigate it.
Q All right. I would like to talk now about a portion of ground that sits north of the east west access road that you've described and north of the series of five wells. Are you familiar with that ground?
A Yes, I am.
Q Did that also belong, and was that a part of the Knollin Ranch when your father owned it?
A Well, a portion of it was, up to the original fence, I believe a quarter -- well, no, it must have been a half a mile

north.

Q During the time that you were on the property, do you recall that land ever having been irrigated?

A No.

Q Was that land homesteaded by your family?

A It -- my understanding is that it was homesteaded by my uncle and my aunt.

Q And do you know whether -- was that proved up in the same way as the Bird Ranch?

A It's my understanding that it was.

Q By irrigation?

A Yes.

Q Was -- were there any irrigation ditches on the property while you were familiar with it?

A Yes, there were.

Q And was there a well that served that property?

A Yes, that large well that we've talked about previously that sits in the far northwest corner of the Knollin proper, the ditches are set up to water from that well.

Q Do you have an understanding why those lands in spite of the ditches and the well were never irrigated?

A Well, my testimony on that won't be too much different than my mom's homestead. My father seeded into crested wheat and while the feed was similar to the BLM crested wheat it gave him an opportunity to manage cattle on deeded land during

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BEFORE THE DIRECTOR OF

THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223, 4224, 4225, 4226, AND 4227 IN THE NAME OF SAGE WILLOW, INC.	**APPLICANT'S AND PROTESTANTS' STIPULATION TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ON REMAND TO IDWR**

Applicant Sagewillow, Inc., through its attorney Kent Foster of the firm of Holden Kidwell Hahn and Crapo, and Protestants James Mays, Mays Land & Livestock, and Blaine County Canal Company, through their attorney Michael C. Creamer of the firm of Givens Pursley LLP hereby stipulate to the following findings of fact and conclusions of law with respect to the above-captioned water rights transfers ("Transfers") now pending before the Idaho Department of Water Resources ("Department") on remand from the Idaho Supreme Court. The parties also stipulate to supplementation of the record with the Affidavit of Kent Foster submitted contemporaneously herewith, and waive their right to a hearing.

BACKGROUND INFORMATION

1. On September 20, 1993, Sagewillow filed the Transfers with the Department seeking to change the place of use and points of diversion of various ground and surface water rights originally authorized for irrigation purposes on a combined total of 2,383 acres.

2. The Transfers were protested by James Mays, Mays Land & Livestock, and Blaine County Canal Company.

3. The Protestants alleged that all or portions of the above-captioned water rights had been abandoned by Sagewillow's predecessor in interest, Slim Hawley, or in any event had been forfeited due to non-use for more than the statutory five-year period.

4. A hearing on the Transfers was held in Idaho Falls, Idaho on January 31 and February 1, 1995.

5. The Department issued a final order on March 12, 1996 ("1996 Order"). On review of the 1996 Order the Idaho Supreme Court, on April 10, 2003, remanded the Transfers to the Department for further proceedings under a clarified statement of the doctrine of resumption of use.

6. On _____, 2003, Sagewillow requested that the Transfers be deemed withdrawn. On _____, pursuant to a stipulation of the parties, Sagewillow submitted notice that it wished to revoke the withdrawal of the Transfers. The Notice was accompanied by the Affidavit of Kent Foster, a Stipulation of Findings of Fact and Conclusions of Law, and a proposed irrigation plan, proposing use of water pursuant to the Transfers to irrigate no more than 1,816 acres.

7. The Department has considered the above documents and pleadings, the record of the prior proceedings, the decision of the Idaho Supreme Court, and being otherwise advised, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

Water Right Nos. 33-2091 and 33-2090

1. With respect to Water Right No. 33-2091, uncontradicted, clear and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under Water Right No. 33-2091 on the lands to which it was appurtenant (known as the "Homestead Place") for at least twenty consecutive years.

2. No evidence was presented to suggest that the non-use of Water Right No. 33-2091 was due to circumstances beyond Slim Hawley's control or that any other defense to forfeiture or abandonment could be asserted.

3. With respect to Water Right No. 33-2090, uncontradicted, clear and convincing evidence was introduced at the hearing, including testimony and historical aerial photographs, demonstrating that water had not been diverted or beneficially used under Water Right No. 33-2090 on the lands to which it was appurtenant (known as the "North of the Road Place") for at least twenty consecutive years.

4. No evidence was presented to suggest that the non-use of Water Right No. 33-2090 was due to circumstances beyond Slim Hawley's control or that any other defense to forfeiture or abandonment could be asserted.

Water Right Nos. 33-2057 and 33-2083

5. Water Right Nos. 33-2057 and 33-2083, originally were licensed for irrigation of 1,483 acres. There is conflicting or less than conclusive evidence concerning the extent of historical irrigation under these rights, and the extent to which water may or may not have been available for beneficial use on the 1,483 acres in the years prior to Sagewillow's purchase of the Property.

Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008

6. Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008 are water rights with relatively junior priorities that are diverted to beneficial use when available on the lands to which Water Right Nos. 33-2057 and 33-2083 are appurtenant. These water rights historically have been in priority primarily during times of high water, and have been used as a water supply that is supplemental to Water Right Nos. 33-2057 and 33-2083.

Water Right No. 33-02133

7. Water Right No. 33-02133 authorizes diversions of water from Big Spring Creek and from the Little Lost River during the non-irrigation season for "root zone storage."

8. Diversion of water under Water Right No. 33-02133 essentially served to conserve the surface water in storage as ground water on the Knollin Ranch, to make additional water available in the ensuing irrigation season to the pasture grass on the Knollin Ranch, and to provide some amount of additional supply to surface and ground water sources downstream from the Knollin Ranch.

9. Historically, for reasons beyond Slim Hawley's control, water under Water Right No. 33-02133 often was difficult to divert through the existing ditch to the place of use because

of icing problems. Historically, some portion of this water, therefore, remained in Big Spring Creek during the non-irrigation season, immediately passing downstream as surface water. To the extent this occurred, this water may not have been available to augment ground and surface water supplies during the ensuing irrigation season.

10. After Sagewillow acquired the Knollin Ranch, it installed a pipeline to deliver the surface water under Water Right No. 33-02133 to several ponds on the Knollin Ranch where the water is allowed to seep into the ground water. The pipeline minimizes the historical icing problems and permits Sagewillow to divert more surface water in winter to storage as ground water. This development and use has beneficial effects on ground and surface water supplies during the ensuing irrigation season.

Water Right Nos. 33-2086 and 33-7018

11. Water Rights Nos. 33-2086 and 33-7018, which Sagewillow purchased from David Hawley, originally were licensed for irrigation of a combined total of 260 acres on what is known as the "Frew Place." When Sagewillow purchased 230 of the 260 acres "together with appurtenances" it also purchased the existing wells, and an easement for access to the authorized points of diversion, including the point of diversion located on the thirty acres retained by David Hawley.

12. The thirty acres retained by David Hawley have not been irrigated since Sagewillow's purchase of the 230 acres and the appurtenant water rights.

13. Kent Foster, Sagewillow's counsel, was involved in the Sagewillow-David Hawley transaction and has stated by way of affidavit that the parties to that transaction intended and understood that Sagewillow was buying the 230 acres of land and *all* of Water Right Nos. 33-7018 and 33-2086 appurtenant to the 260 acre Frew Place.

Duty of Water

14. The original licenses issued to Slim Hawley for use on the above-described lands together with evidence in the record, demonstrate that the duty of water for the Sagewillow lands is no more than 0.02 cfs per irrigated acre.

Prior Transfer No. 3785

15. In 1992 the Department approved Transfer No. 3785 by which Sagewillow proposed to change the place of use of Water Right No. 33-2091 from the Homestead Place to the North of the Road Place. Pursuant to Transfer No. 3785 Sagewillow completed a new well, installed mainlines and pivots and commenced irrigating 320 acres of land, which included 185 acres of the North of the Road Place.

16. Sagewillow continued irrigating the above-described 320 acres pursuant to Transfer No. 3785 until that transfer was voided by the1996 Order.

CONCLUSIONS OF LAW

1. The originally authorized place of use under all of the above-described water rights totals 2,383 irrigated acres.

2. Water Right Nos. 33-2091 and 33-2090 totaling 640 irrigated acres were abandoned in their entirety by Slim Hawley, and in any event were statutorily forfeited before Sagewillow purchased the Homestead Place and the North of the Road Place.

3. Clear and convincing evidence of forfeiture of Water Right Nos. 33-2057 and 33-2083 has not been established. Water Right Nos. 33-2057 and 33-2083 are recognized as valid to the extent of 0.02 cfs per irrigated acre on a 1,483 acre place of use.

4. Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008 historically have been used as, and are concluded to be, supplemental to Water Right Nos. 33-2057 and 33-2083, and are recognized as valid for use as a supplemental water supply on the same 1,483 acre place of use as described for Water Rights 33-2057 and 33-2083.

5. Idaho law provides that absent contrary evidence of intent of the parties, it is presumed that a water right will pass as an appurtenance in parts on the sale of the land in parts. Although the deed of the 230 acres from David Hawley to Sagewillow purports to convey only the appurtenant water rights, i.e, that portion of the rights appurtenant to the 230 acres conveyed in the deed, Sagewillow has presented sufficient evidence of the parties' intent that the entire water right was to pass with the 230 acres to rebut the presumption that only a portion was conveyed. Water Right Nos. 33-2086 and 33-7018 are recognized as valid to the extent of 0.02 cfs per acre on a 260-acre place of use, and the remaining 30 acres on the David Hawley property has no irrigation water.

6. Clear and convincing evidence of forfeiture of Water Right No. 33-02133 has not been established. Water Right No. 33-02133 is recognized as valid to the extent of _____acres of beneficial use for subirrigation, provided however, that water may not be rediverted from storage for direct irrigation under this right.

7. The diversion of Water Right 33-02133 during the non-irrigation season has an unquantified, but acknowledged positive effect on ground water levels on the Knollin Ranch, and delayed benefits to stream flows and ground water levels downstream from the Knollin Ranch.

8. Resumption of use of water under Water Right Nos. 33-2091 and/or 33-2090 will reduce the amount of water available in the Little Lost River downstream from the Knollin

Ranch, and accruals to the interconnected ground water source below the Knollin Ranch. Although such a resumption of use otherwise would reduce the amount of water available to existing junior rights in the ground water source below the Knollin Ranch and preclude a lawful resumption of use under the Supreme Court's decision in *Sagewillow v. IDWR*, the parties have stipulated, and the Department concludes, that the positive hydrologic effects of the winter water diversions under Water Right No. 33-02133 described above will offset or mitigate any adverse effect that may be attributable to the resumption of irrigation of no more than 73 acres under Water Right No. 33-2091.

9. Although Transfer No. 3785 has since been voided by the Department, Sagewillow resumed actual diversions of ground water under Water Right 33-2091 pursuant to the Department's authorization in Transfer No. 3785. Because Sagewillow actually recommenced such use pursuant to Transfer 3785, and because the adverse effects on junior rights of such a resumption (to the extent of no more than 73 acres) was, and can continue to be, prevented by historical and continued winter water diversions under Water Right No. 33-02133, the Department recognizes a valid resumption of use of Water Right No. 33-2091 for irrigation to the extent of 0.02 cfs on 73 acres. The balance of Water Right No. 33-2091 is deemed abandoned.

10. Continued diversions of water under the resumed portion of Water Right No. 33-2091 are deemed mitigated by, and therefore are expressly contingent upon, continued diversions of winter water under Water Right No. 33-02133 to the extent water is available for diversion under that right.

11. The total number of acres authorized to be irrigated under the above-captioned Transfers is 1,816 acres as follows:

a. 1,483 acres under Water Right Nos. 33-2057 and 33-2083, as supplemented by Water Right Nos. 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00079, 33-00080, 33-00081, 33-00082, 33-02007 and 33-02008;

b. 260 acres under Water Right Nos. 33-2086 and 33-7018; and

c. 73 acres under Water Right No. 33-2091, subject to continued winter water diversions under Water Right No. 33-02133.

12. The Transfers are APPROVED with conditions as set forth herein. Sagewillow shall be entitled to irrigate up to 1,816 acres under the subject water rights consistent with the irrigation plan submitted by Sagewillow with its Notice of Intent to Proceed with Transfers.

[Other standard conditions: Measuring and reporting, etc.]

DATED this ___ day of January 2004.

GIVENS PURSLEY LLP

By _____
Michael C. Creamer
Attorneys for James Mays, Mays Land and Livestock Inc. and Blaine County Canal Company

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

By: _____
Kent W. Foster
Attorneys for Sagewillow, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of January 2004, I served a true and correct copy of the foregoing by delivering the same to the following by the method indicated below, addressed as follows:

Kent W. Foster, Esq.
Holden Kidwell Hahn & Crapo PLLC
330 Shoup Ave.
P.O. Box 50130
Idaho Falls, ID 83405-0130

_____ U. S. Mail
_____ Hand Delivered
_____ Overnight Mail
_____ Facsimile

_____
Michael C. Creamer

AFFIDAVIT OF REED D. NORD

STATE OF IDAHO)
) ss.
County of Bonneville)

Reed D. Nord, being first duly sworn, on his oath deposes and says:

1. Affiant is, and has been for thirty years, a real estate salesman, specializing in the sale of farms and ranches in southeastern Idaho. Affiant presently resides near Ririe, in Jefferson County, Idaho.

2. About the first part of January, 1993, affiant was given a listing by Terry Hawley, a single man, and David and Connie Hawley, husband and wife, to sell property owned by them in sections 32 of Township 8 north, Range 28 east and section 5 of Township 7 north, Range 28 east, in Butte County, Idaho sometimes known as the "Frew Place".

3. In his meetings with the Hawleys, affiant learned that they desired to sell approximately 250 acres and all of their water rights. Affiant learned there were two (2) wells and two (2) groundwater rights, numbers 33-2086 and 33-7018, but Hawleys intended to sell both wells and all of the water rights. Although there was a tract of land just south of the Hawley home and yard of about 30 acres which had previously been irrigated, and which Hawleys' desired to retain, they made it clear to affiant that they intended to sell the wells and water rights, and not to irrigate the 30 acres in the future. Affiant understood that the Hawleys all worked some distance from the property and did not have time to take care of irrigating this 30 acres. They indicated they would use it only for dry pasture for a very few animals, if at all.

4. Affiant was successful in finding a purchaser for the "Frew Place" and the water rights. Sagewillow, Inc. owned the "Knollin Ranch" immediately to the southwest of the "Fru Place", and the President of Sagewillow, Inc., Mr. Ed Dumke, was interested in acquiring the property and expressed a great deal of interest in obtaining all of the water rights for use in connection with his operation of the "Knollin Ranch" and the "Frew Place".

5. Sagewillow, Inc. did purchase approximately 250 acres of the "Frew Place" from the Hawleys, and all of the water rights, consisting of water rights licenses numbers 33-2086 and 33-7018. The transaction was closed March 9, 1993. Affiant understood that the

Hawleys intended to retain no portion of either water right, and that Sagewillow, Inc. intended to purchase all of the water rights and to reconfigure the place of use of the water rights for the benefit of the Sagewillow land.

DATED this 22nd day of January, 2004.

Reed D. Nord

Subscribed and sworn to before me on this 22nd day of January, 2004.

CHERI VANDERMEULEN NOTARY PUBLIC STATE OF IDAHO

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

G:\WPDATA\KWP\[illegible]\Reed Nord Affidavit.wpd cdv

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

RECEIVED APR 30 1993

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

APRIL 29, 1993

SAGE WILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS IF 83405

RE: CHANGE IN OWNERSHIP FOR A33-02086 AND A33-07018

Dear Kent:

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

Enclosed are typed Notices with your client's name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep these Notices for your client's records.

Respectfully submitted,

for Jo Thompson

Dave Carlson
Water Right Agent, Adjudications

DC:jt

Enclosure: Notices of Claim

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A33-07018**
Date Received: 4/ 4/1990
Receipt No: E012789
Received By: _____

COPY

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

1. Name: SAGE WILLOW INC 208-523-0620
   Address: C/O KENT FOSTER
   HOLDEN KIDWELL HAHN & CRAPO
   PO BOX 50130
   IDAHO FALLS ID 83405

2. Date of Priority: SEP 12, 1972

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08N	28E	32		SW	SW		BUTTE

5. Description of diverting works:
   WELL, PUMP & MAINLINE TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.260		489.00

7. Total Quantity Appropriated is:
   3.260 C.F.S. (and/or) 489.00 A.F.A.

8. Total consumptive use is 407.5 Acre Feet Per Annum.

9. Non-irrigation uses:
   NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	28E	5	NE	NW		IRR	30.0
			NW	NW		IRR	38.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07N	28E	5	SW	NW		IRR	21.0
			SE	NW		IRR	35.0
			NE	SW		IRR	39.0
						Section Acres	163.0
						Total Acres	163.0

11. Place of use in counties: BUTTE

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

13. Other Water Rights Used:
33-02086

14. Remarks:
REINSTATED 11-14-1977.

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

_____
Title and Organization

_____
Date

State of Idaho)
) SS.
County of _____)

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

of _____ 19 _____ _____
Notary Public

Seal

Residing at _____

My Commission Expires _____

17. Notice of Appearance:
Notice is hereby given that I,_____ will be
Print Name
acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature_____

Address_____

Date_____

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

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

CIVIL CASE NUMBER: 39576

COPY

Ident. Number: **A33-02086**
Date Received: 4/ 4/1990
Receipt No: E012789
Received By: _____

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

1. Name: SAGE WILLOW INC 208-523-0620
   Address: C/O KENT FOSTER
   HOLDEN KIDWELL HAHN & CRAPO
   PO BOX 50130
   IDAHO FALLS ID 83405

2. Date of Priority: JAN 12, 1959

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
08N	28E	32	NW NW SW		BUTTE

5. Description of diverting works:
   WELL/ PUMP MAINLINES TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	4.100		

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

8. Total consumptive use is 650.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   NONE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	28E	5	NE NW	3	IRR	35.0
			NW NW	4	IRR	38.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07N	28E	5	SW	NW		IRR	33.0
			SE	NW		IRR	36.0
			NE	SW		IRR	31.0
					Section Acres		173.0
08N	28E	32	NW	SW		IRR	31.0
			SW	SW		IRR	39.0
			SE	SW		IRR	17.0
					Section Acres		87.0
					Total Acres		260.0

11. Place of use in counties: BUTTE

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

13. Other Water Rights Used:
33-07018

14. Remarks:
ALSO SEE RECEIPTS #E018419-$22.00 AND #E018463-$6.00.

15. Basis of Claim: LICENSE

Water Right Number: 27717

16. Signature(s)

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

Number of attachments: _____

For Organizations:

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

_____
Signature of Authorized Agent

_____
Title and Organization

_____
Date

State of Idaho)
) SS.
County of _____)

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

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

17. Notice of Appearance:
Notice is hereby given that I, _____ will be
Print Name
acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature_____

Address_____

Date_____

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: E018463

Date: 4/15/1993
Time: 16:02:15

Received From: HOLDEN KIDWELL HAHN CRAPO

Type of Payment		Program	Acct	Amount
ADJUDICATION FEE	41503	337	1155	6.00

Total $6.00

CHECK 52666

Water Right Numbers

A33-02086 - - - -

Region: EASTERN Signature:

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
MARIE T. TYLER
JOHN G. SIMMONS, P.A.
ROBERT M. FOLLETT
KUMEN L. TAYLOR
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
330 SHOUP AVENUE
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 810
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

WM. LYMAN BELNAP, P.A.
RANDALL B. REED
RONALD D. CHRISTIAN
FREDERICK J. HAHN III

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1988)

April 6, 1993

Eric Verner, Sr. Water Agent
IDAHO DEPARTMENT OF WATER RESOURCES
900 North Skyline Drive
Idaho Falls, Idaho 83402-1718

Dear Eric:

We have now received from First American Title Company in Blackfoot, the water rights documents executed in connection with the closing of a purchase by Sagewillow, Inc., of some additional land near its Knollin Ranch from David and Terry Hawley. In connection with the closing, the Hawleys executed an Amended Notice of Claim to a Water Right Acquired Under State Law. I believe the original Notice of Claim was filed for only 238 acres and so maybe there should be an additional filing fee of some $22.00, a check for which is enclosed with this letter. Claims Nos. A33-02086 and A33-07018 were assigned by the Hawleys to Sagewillow, Inc., and we are enclosing a copy of both the Assignment of Notice and the Notice Concerning Water Rights for Property forms with this letter. Thank you for your kind attention to this matter.

Yours very truly,

Kent W. Foster

Kent W. Foster

#8149.00/srs

Enclosure

Form No: 42-1409(2)a 1/88

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

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

CIVIL CASE NUMBER: 39576
Ident. Number A33-02086
Date Received _____
Receipt Number _____

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

1. Name of Claimant(s) David and Terry Hawley Phone (208) 785-5407

Mailing Address 675 South Shilling, Blackfoot, Idaho Zip 83221

2. Date of Priority (Only (1) per claim) January 12, 1959

3. Source of water supply (a) Groundwater

which is tributary to (b) _____

4.a. Location of existing

point of diversion is: Township 8N. Range 28E. Section 32,

NW 1/4 of NW 1/4 of SW, Govt. Lot, ____ B.M., County of Butte

Additional points of diversion if any: _____

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well and pump. Mainlines to sprinkler system.

6. Water is claimed for the following purposes:

				(Both dates are inclusive)		(cfs)		(acre feet)
For	Irrigation	purposes from	04/01	to	11/01	amount	4.1	or _____
For	_____	purposes from	_____	to	_____	amount	_____	or _____
For	_____	purposes from	_____	to	_____	amount	_____	or _____
For	_____	purposes from	_____	to	_____	amount	_____	or _____

7. Total quantity claimed (a) 4.1 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 650 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.)
None.

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE1/4				NW1/4				SW1/4				SE1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	28E	5					35	38	33	36	31								173
8N	28E	32										31	39	17					87

Total number of acres irrigated 260

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

12. Do you own the property listed above as place of use? Yes X No ___
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
33-07018. or None ( )

14. Remarks:

Last Name HAWLEY Ident. Number A33-02086

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

If applicable provide IDWR Water Right Number 27717
Court ___ Case Number ___ Decree Date ___
Plaintiff vs Defendant ___

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

Number of attachments 0

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

Signature of Claimant(s) David Hawley Date March 9, 1993
DAVID HAWLEY

Terry Hawley Date March 9, 1993.
TERRY HAWLEY

For Organizations: I do solemnly swear or affirm that I am ___ (Title) of ___ (Organization), that I have signed the foregoing document in the space below as ___ (Title) of ___ (Organization) and that the statements contained in the foregoing document are true and correct.
Signature of Authorized Agent ___
Title and Organization ___ Date ___

State of Idaho/or ___)
) SS.
County of Bingham)

Subscribed and sworn (or affirmed) before me this 9 day of March, 1993.

Notary Public Reed D Hurd
Residing at Rigby Idaho
My Commission Expires 3-12-99

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

Signature ___
Address P.O. Box 50130, Idaho Falls, Idaho 83405
Date ___

Last Name HAWLEY Ident. Number A33-02086

60851/srs

State of Idaho

Department of Water Resources

ASSIGNMENT OF NOTICE OF CLAIM(S)

We, David and Terry Hawley, hereby assign to Sage Willow, Inc.,

c/o Holden, Kidwell, Hahn & Crapo,
P.O. Box 50130, Idaho Falls, Idaho 83405.
Address

All my right, title, and interest in and to Notice of Claim No(s). A33-02086 and A33-07018.
to a Water Right Acquired Under State Law.

The following described portion of my right, title, and interest in and to Notice of Claim No(s). _____
_____
to a Water Right Acquired Under State Law.

(If assigning a portion, describe that portion of the claim being assigned by listing the acreage within each 40-acre tract, the point of diversion and the amount of water in cubic feet per second for direct diverion, or acre feet for storage)

_____

_____

Made this 9 day of March, 1993.

Signature of Claimant(s) David Hawley

David Hawley

Terry Hawley

Terry Hawley

STATE OF IDAHO)
)ss.
County of Bingham)

On this 9 day of March, 1993, personally appeared before me the signers of the above instrument, who duly acknowledged to me that they executed the same.

Notary Public Rud D Nord
Residing at Rigby, Idaho
My Commission Expires 3-12-99

58671/srs

NOTICE CONCERNING WATER RIGHTS FOR PROPERTY
(to be mailed to the Idaho Department of Water Resources)

DATE OF CLOSING: March 9, 1993.

LEGAL DESCRIPTION OF PROPERTY: (lot and block, where applicable, and Township, Range, Section, sixteenth section)

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

[X] Water Right Number(s): A33-02086 and A33-07018.

[X] Name and Address of Former Owner/Claimant(s): David and Terry Hawley
675 South Shilling
Blackfoot, Idaho 83221

[X] New Owner/Claimant(s): Sage Willow, Inc.

[X] New Mailing Address: c/o Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, Idaho 83405

[X] New Telephone Number: (208) 523-0620

[X] Does the change in ownership result in a splitting of the water right claimed? _____ yes __X__ no

If yes, then describe the portion of the water right that is now claimed by the new owner:

[X] Signature of New Owner/Claimant(s): Sagewillow Inc
Edmund W. Onuche Pres

Date: March 9TH, 1993

[X] Signature of Former Owner/Claimant(s): Gary J. Hawley
Carol Hawley

Date: March 9 1993

[ ] Attach proof of ownership, describe proof attached: _____

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

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: By:
Further Action Needed:
Further Action Taken
Dated: By:
Final Review and Data-Entry
Dated: By:
Claim Numbers of Split, if any:

#8149.00
58661/srs

KWF

NO. 027359

FILED

OCT 27 1993

10:52 A.M. P.M.

BUTTE COUNTY RECORDER

Anna Diaz

CORRECTION WARRANTY DEED

The Warranty Deed, dated March 9, 1993, from Terry Hawley, a single person dealing with his sole and separate property, and David E. Hawley a/k/a David Hawley, and Connie Hawley, husband and wife, the Grantors, to Sagewillow, Inc., the Grantee, which was recorded March 12, 1993, in the records of Butte County, Idaho, as Instrument No. 026677, contained the following paragraph:

> (Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will [sic] for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected, the parties agree to make such corrections.)

The parties have now found that in fact the legal description contained in said deed did not include the irrigation well and sufficient area surrounding said well for access, operation, use, maintenance and repair of said well as intended.

The purpose of this Correction Warranty Deed is to make the necessary correction in the legal description of the property conveyed to Grantee as contemplated by the parties.

NOW, THEREFORE, and for value received, Terry Hawley, a single person dealing with his sole and separate property; David E. Hawley a/k/a David Hawley, and Connie Hawley, husband and wife, the Grantors, do hereby grant, bargain, sell, and convey until Sagewillow, Inc., the Grantee, whose current address is 2416 Plaza Del Grande, Las Vegas, Nevada 89102, the following described premises, to wit:

> Commencing at a 1/2" rebar marking the SW Corner of Section 32, Township 8 North, Range 28 East, Boise Meridian, and the NW Corner of Section 5, Township 7 North, Range 28 East, Boise Meridian, Butte County, Idaho, said corner lying S 00°19'15"E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.
>
> Thence N 00°19'15"W, 1316.20 feet along the westerly boundary of said Section 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15"W, 979.00 feet along said section line; thence N 90°00'00"E, 40.00 feet; thence S 00°19'15"E, 24.00 feet; thence N 90°00'00"E, 20.00 feet; thence S 00°19'15"E, 20.00 feet; thence N 90°00'00"W, 20.00 feet; thence S 00°19'15"E, 934.93 feet to the northerly 1/16 boundary thence N 89°54'10"E, 1277.67 feet along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Section 32; thence N 89°54'10"E, 1317.67 feet along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of Section 32; thence S 00°06'34"W, 1317.22 feet along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Section 32 and Section 5, Township 7 North, Range 28 East, Boise Meridian; thence S 00°04'18"W, 3895.50 feet to the CS 1/16 Corner of Section 5; thence S 89°54'05"W, 1321.30 feet to the SW 1/16 Corner; thence N 00°11'50"E, 1316.47 feet to

the CW 1/16 Corner; thence S 89°48'09"W, 391.71 feet along the 1/4 section line; thence N 31°41'39"W, 149.59 feet; thence N 03°42'07"W, 442.43 feet; thence N 21°07'24"W, 283.84 feet; thence N 39°11'32"W, 176.63 feet; thence N 27°52'36"W, 266.90 feet; thence N 50°23'36"W, 58.75 feet; thence N 39°08'42"W 656.73 feet; thence N 89°52'48"W, 9.70 feet to the westerly boundary of said Section 5; thence N 00°19'27"E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning. Also contained within this description are 2 60-foot wide roads: (1) The Howe Northwest Highway and (2) a county road within the NW 1/4 Section 5.

Said described property contains 252 acres, more or less, minus 6.5 acres, more or less, within said roads for a net acreage of 245.5 acres, more or less.

EXCEPTING THEREFROM Oil and Gas rights, and particularly Oil and Gas Lease and Assignment thereof.

TOGETHER with all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights Licenses, Nos. 33-2086 and 33-0718.

TOGETHER with all the irrigation equipment including:

(1) Motor, U.S. Motors, 50 HP #882566

(2) Pump, Berkley, Mod #1200SH-3, with panel #5110301

(3) Pump, G.E. Motor, 50 HP Model #5K6248XH4A, #FHJ628450

(4) Pump, Verti Line Layne Bowler, Model 14RL, #18 2110

Together with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

Subject to any reservations in United States patents and State deeds or other restrictions imposed by law, easements and right-of-way, zoning and building ordinances, use restrictions of record, and taxes and assessments for the year 1993 and thereafter.

TO HAVE AND TO HOLD said premises, with their appurtenances unto said Grantee, its heirs and assigns forever. And said Grantors do hereby covenant to and with said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances and that they will forever warrant and defend the same from all lawful claims whatsoever.

DATED and signed this _____ day of October, 1993.

David Hawley

Connie Hawley

Terry Hawley

The Grantee hereby agrees to and accepts this correction to the Warranty Deed referenced above.

SAGEWILLOW, INC.

Edmund W. Dumke, President

Edmund W. Dumke, President

STATE OF IDAHO)
)ss.
County of BLAINE)

On this 21st day of October, in the year 1993, before me, the undersigned, a notary public in and for said state, personally appeared **EDMUND W. DUMKE**, known or identified to me to be the President, of **SAGEWILLOW, INC.**, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

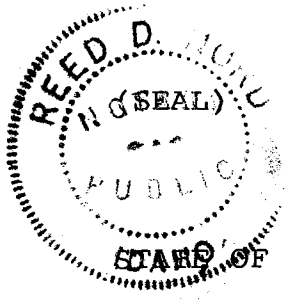
Della VanZeipel
Notary Public for IDAHO
Residing at Ketchum
My Commission Expires: 8/8/96

(seal)

STATE OF IDAHO)
) ss.
County of Bingham)

On the 16 day of October, in the year of 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared **TERRY HAWLEY**, a single person, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.

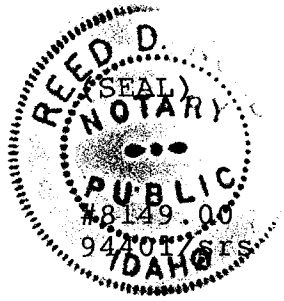


Reed D Nord
Notary Public for Idaho
Residing at Rigby, Idaho
My Commission Expires: 3-17-2003

STATE OF IDAHO)
) ss.
County of Bingham)

On the 16 day of October, in the year of 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared **DAVID HAWLEY** and **CONNIE HAWLEY**, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Reed D Nord
Notary Public for Idaho
Residing at Rigby, Idaho
My Commission Expires: 3-17-2003

NO. 027360

FILED

OCT 27 1993

10:52 A.M. P.M.

BUTTE COUNTY RECORDER

AMENDMENT TO MORTGAGE

Sagewillow, Inc., through its President, Edmund W. Dumke, gave its "Mortgage Promissory Note" to Terry Hawley, a single person dealing with his sole and separate property, David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, as mortgagees, on March 9, 1993, which note was then secured by a "Real Estate Mortgage", dated March 9, 1993, and recorded on March 12, 1993, in the records of Butte County, Idaho, as Instrument No. 026678.

Said Mortgage contained the following paragraph:

> (Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will [sic] for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected, the parties agree to make such corrections.

The parties have now found that in fact the legal description contained in the above-described Real Estate Mortgage did not include the irrigation well and sufficient area surrounding said well for access, operation, use, maintenance and repair of said well as intended.

The parties hereto have executed a Correction Warranty Deed to make the necessary correction in the legal description

of the property conveyed to Sagewillow by the Hawleys as contemplated by said parties. Said parties also hereby amend the legal description contained in the above-referenced Real Estate Mortgage by striking that portion of said description, commencing with the words "DESCRIPTION OF A PARCEL OF PROPERTY", through the words "acreage of 245.5 acres, more ov [sic] less", and substituting therefore the following legal description:

> Commencing at a 1/2" rebar marking the SW Corner of Section 32, Township 8 North, Range 28 East, Boise Meridian, and the NW Corner of Section 5, Township 7 North, Range 28 East, Boise Meridian, Butte County, Idaho, said corner lying S 00°19'15"E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.
>
> Thence N 00°19'15"W, 1316.20 feet along the westerly boundary of said Section 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15"W, 979.00 feet along said section line; thence N 90°00'00"E, 40.00 feet; thence S 00°19'15"E, 24.00 feet; thence N 90°00'00"E, 20.00 feet; thence S 00°19'15"E, 20.00 feet; thence N 90°00'00"W, 20.00 feet; thence S 00°19'15"E, 934.93 feet to the northerly 1/16 boundary thence N 89°54'10"E, 1277.67 feet along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Section 32; thence N 89°54'10"E, 1317.67 feet along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of Section 32; thence S 00°06'34"W, 1317.22 feet along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Section 32 and Section 5, Township 7 North, Range 28 East, Boise Meridian; thence S 00°04'18"W, 3895.50 feet to the CS 1/16 Corner of

Section 5; thence S 89°54'05"W, 1321.30 feet to the SW 1/16 Corner; thence N 00°11'50"E, 1316.47 feet to the CW 1/16 Corner; thence S 89°48'09"W, 391.71 feet along the 1/4 section line; thence N 31°41'39"W, 149.59 feet; thence N 03°42'07"W, 442.43 feet; thence N 21°07'24"W, 283.84 feet; thence N 39°11'32"W, 176.63 feet; thence N 27°52'36"W, 266.90 feet; thence N 50°23'36"W, 58.75 feet; thence N 39°08'42"W 656.73 feet; thence N 89°52'48"W, 9.70 feet to the westerly boundary of said Section 5; thence N 00°19'27"E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning. Also contained within this description are 2 60-foot wide roads: (1) The Howe Northwest Highway and (2) a county road within the NW 1/4 Section 5.

Said described property contains 252 acres, more or less, minus 6.5 acres, more or less, within said roads for a net acreage of 245.5 acres, more or less.

DATED this 19 day of October, 1993.

SAGEWILLOW, INC.

Edmund W. Dumke, President

Edmund W. Dumke, President

MORTGAGEE

David Hawley

Connie Hawley

Terry Hawley

Terry Hawley

MORTGAGEE

STATE OF IDAHO)
) ss.
County of Bingham)

On the 16 day of October, in the year of 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared **TERRY HAWLEY**, a single person, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.

Reed D Nord

Notary Public for Idaho
Residing at Rigby, Idaho
My Commission Expires: 3-12-2003

REED D. NORD (SEAL) NOTARY PUBLIC IDAHO

STATE OF IDAHO)
) ss.
County of Bingham)

On the 16 day of October, in the year of 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared **DAVID HAWLEY** and **CONNIE HAWLEY**, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

REED D. NORD NOTARY (SEAL) PUBLIC IDAHO

Reed D Nord
Notary Public for Idaho
Residing at Rigby, Idaho
My Commission Expires: 3-12-2003

STATE OF Idaho)
)ss.
County of Blaine)

On this 21st day of October, in the year 1993, before me, the undersigned, a notary public in and for said state, personally appeared **EDMUND W. DUMKE**, known or identified to me to be the President, of **SAGEWILLOW, INC.**, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(seal) NOTARY PUBLIC #8149.00 94421/srs

Della VanZeipel
Notary Public for IDAHO
Residing at Ketchum
My Commission Expires: 8/18/96

3164-B

NO. 926677

FILED

MAR 12 1993

A.M. 12:05 P.M.

BUTTE COUNTY RECORDER

WARRANTY DEED 930021D.DOC

FOR VALUE RECEIVED Terry Hawley, a single person dealing with his sole and separate property; David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, the Grantors, do hereby grant, bargain, sell, and convey unto Sage Willow Inc., the Grantee, whose current address is 2416 Plaza Del Grande, Las Vegas, Nevada, 89102 the following described premises, to-wit:

DESCRIPTION OF A PARCEL OF PROPERTY
Within: SEC. 32, T8N, R28E, B.M., the S1/2SW1/4
and a portion of NW1/4SW1/4 and
Within: SEC. 5, T7N, R28E, B.M., the NE1/4SW1/4
and a portion of the NW1/4
Little Lost River Valley, Butte County, Idaho

A single parcel of property to be described by metes and bounds:

Commencing at a 1/2" rebar marking the SW Corner of Sec. 32, T8N, R28E, B.M., and the NW corner of Sec. 5, T7N, R28E, B.M., Butte County, Idaho, said corner lying S 00°19'15" E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.

Thence N 00°19'15" W, 1316.20 feet along the Westerly boundary of said Sec. 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15" W, 990.00 feet along said section line;
thence N 90°00'00" E, 40.00 feet;
thence S 00°19'15" E, 990 feet, more or less, to the northerly 1/16 boundary line of the SW1/4 SW1/4 of said Sec. 32;
thence Easterly, 1280 feet, more or less, along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Sec. 32;
thence Easterly, 1320 feet, more or less, along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of said Sec. 32;
thence Southerly, 1320 feet, more or less, along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Sec. 32 and Sec. 5, T7N, R28E, B.M.;
thence S 00°04'18" W, 3895.50 feet to the CS 1/16 Corner of Sec. 5; thence S 89°54'05" W, 1321.30 feet to the SW 1/16 Corner;
thence N 00°11'50" E, 1316.47 feet to the CW 1/16 Corner;
thence S 89°48'09" W, 391.71 feet along the 1/4 section line;
thence N 31°41'39" W, 149.59 feet;

thence N 03°42'07" W, 442.43 feet;
thence N 21°07'24" W, 283.84 feet;
thence N 39°11'32" W, 176.63 feet'
thence N 27°52'36" W, 266.90 feet;
thence N 50°23'36" W, 58.75 feet;
thence N 39°08'42" W, 656.73 feet;
thence N 89°52'48" W, 9.70 feet to the westerly boundary of said Section 5;
thence N 00°19'27" E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning.

Also contained within this description are 2 60-foot wide roads: 1) The Howe Northwest Highway 2) A county road within the NW1/4 Sec. 5.

Said described property contains 252 acres, more or less, minus 6.5 acres, more of less, within said roads for a net acreage of 245.5 acres, more of less.

(Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected the parties agree to make such corrections.)

EXCEPTING THEREFROM Oil and Gas rights, and particularly Oil and Gas Lease and Assignment thereof.

TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-0718.

TOGETHER With all irrigation equipment including the following:

1. Motor, U.S. Motors, 50 HP #882566
2. Pump, Berkley, Mod #1200SH-3, with panel #5110301
3. Pump, G.E. Motor, 50 HP Model #5K6248XH4A, #FHJ628450
4. Pump, Verti Line Layne Bowler, Model 14RL, #18 2110

Together with tenements, hereditaments, appurtenances, ditches and ditch rights and water and water rights thereunto belonging or in anywise appertaining.

Subject to reservations in United States patents and State deeds or other restrictions imposed by law, easements and right-of-way, zoning and building ordinances, use restrictions of record, and taxes and assessments for the year 1993 and thereafter.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, it's heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED and signed this 9 day of ~~February~~ March 1993.

David Hawley

Connie Hawley

Terry Hawley

STATE OF IDAHO)
) ss.
County of Bingham)

On this 9 day of ~~February~~ March 1993, before me, the undersigned, a notary public in and for said state, personally appeared David Hawley and Connie Hawley, husband and wife, known to me to be the person whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

REED NOTARY PUBLIC IDAHO

Notary Public for State of Idaho
Residing at ~~Blackfoot~~ Rigby, Idaho

My cmn exprs: 3-12-99

STATE OF IDAHO)
) ss.
County of Bingham)

On this 9th day of ~~February~~ March 1993, before me, the undersigned, a notary public in and for said state, personally appeared Terry Hawley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.

Anita McQuarrey
Notary Public for State of Idaho
Residing at Blackfoot
Comm Exp 5/20/94

My cmn exprs:

ANITA McQUARREY
NOTARY
PUBLIC
STATE OF IDAHO

3164-b

NO. 02678 COPY

FILED

REAL ESTATE MORTGAGE MAR 12 1993 930021C.DOC

A.M. 12:06 P.M.

BUTTE COUNTY RECORDER

THIS MORTGAGE made by Sage Willow INC! A Nevada Corporation, 2416 Plaza Del Grande, Las Vegas, State of Nevada, Mortgagor, and Terry Hawley, a single person dealing with his sole and separate property; David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, whose address is 675 Shilling, Blackfoot, of the County of Bingham, State of Idaho, Mortgagees.

WITNESSETH that the said Mortgagor, in consideration of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00) the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, and conveys unto the said Mortgagees and assigns forever, the following real estate situated in Butte County, State of Idaho, to-wit:

DESCRIPTION OF A PARCEL OF PROPERTY
Within: SEC. 32, T8N, R28E, B.M., the S1/2SW1/4
and a portion of NW1/4SW1/4 and
Within: SEC. 5, T7N, R28E, B.M., the NE1/4SW1/4
and a portion of the NW1/4
Little Lost River Valley, Butte County, Idaho

A single parcel of property to be described by metes and bounds:

Commencing at a 1/2" rebar marking the SW Corner of Sec. 32, T8N, R28E, B.M., and the NW corner of Sec. 5, T7N, R28E, B.M., Butte County, Idaho, said corner lying S 00°19'15" E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.

Thence N 00°19'15" W, 1316.20 feet along the Westerly boundary of said Sec. 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15" W, 990.00 feet along said section line; thence N 90°00'00" E, 40.00 feet;
thence S 00°19'15" E, 990 feet, more or less, to the northerly 1/16 boundary line of the SW1/4 SW1/4 of said Sec. 32;
thence Easterly, 1280 feet, more or less, along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Sec. 32;

thence Easterly, 1320 feet, more or less, along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of said Sec. 32;
thence Southerly, 1320 feet, more or less, along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Sec. 32 and Sec. 5, T7N, R28E, B.M.;
thence S 00°04'18" W, 3895.50 feet to the CS 1/16 Corner of Sec. 5; thence S 89°54'05" W, 1321.30 feet to the SW 1/16 Corner;
thence N 00°11'50" E, 1316.47 feet to the CW 1/16 Corner;
thence S 89°48'09" W, 391.71 feet along the 1/4 section line;
thence N 31°41'39" W, 149.59 feet;
thence N 03°42'07" W, 442.43 feet;
thence N 21°07'24" W, 283.84 feet;
thence N 39°11'32" W, 176.63 feet'
thence N 27°52'36" W, 266.90 feet;
thence N 50°23'36" W, 58.75 feet;
thence N 39°08'42" W, 656.73 feet;
thence N 89°52'48" W, 9.70 feet to the westerly boundary of said Section 5;
thence N 00°19'27" E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning.
Also contained within this description are 2 60-foot wide roads: 1) The Howe Northwest Highway 2) A county road within the NW1/4 Sec. 5.
Said described property contains 252 acres, more or less, minus 6.5 acres, more of less, within said roads for a net acreage of 245.5 acres, more of less.

(Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected the parties agree to make such corrections.)

EXCEPTING THEREFROM Oil and Gas rights, and particularly Oil and Gas Lease and Assignment thereof.

TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-7018.

TOGETHER With all irrigation equipment including the following:

1. Motor, U.S. Motors, 50 HP #882566
2. Pump, Berkley, Mod #1200SH-3, with panel #5110301
3. Pump, G.E. Motor, 50 HP Model #5K6248XH4A, #FHJ628450
4. Pump, Verti Line Layne Bowler, Model 14RL, #18 2110

TOGETHER with all the improvements, privileges and appurtenances thereunto belonging and all rights of homestead exemption; together with all ditch and water rights of every nature, however evidenced, used on the said land or belonging to the same or said Mortgagor, which may be hereafter acquired or used upon said land. Said Mortgagor hereby warrants the title to said land and water rights against all persons whomsoever, and agrees to defend the same. The parties have agreed that part or all of the water rights included in State of Idaho Water Rights License Nos. 33-2086 and 33-7018 may be transferred to other property. If that occurs, Mortgagor agrees that this mortgage secures said State of Idaho Water Rights License Nos. 33-2086 and 33-7018 regardless of said transfer. If foreclosure is necessary, any water rights so transferred shall be immediately transferred back to the land herein described.

THIS CONVEYANCE is intended as a mortgage to secure the payment of a certain promissory note of even date herewith for ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00), executed and delivered by the said Mortgagor, to the said Mortgagees.

The date of maturity of the obligation or indebtedness secured hereby is the 1st day of March 2003.

The said Mortgagor hereby covenants and agrees to pay, before the same becomes delinquent, all taxes and assessments upon said premises, or this mortgage, or the debt secured hereby, laid or assessed in Butte County, also personal taxes; also all dues or assessments upon said ditch or water rights or water stock, and in the event of default so to do, the holder hereof may pay the same; to keep the buildings located upon said premises insured in the sum of at least equal to their value, with loss, if any, payable to the said Mortgagees or assigns, in some company to be approved by the Mortgagees, and deliver all policies and the renewals thereof to the said Mortgagees, and in the event of a default so to do, the holder hereof may insure the same. In case of the foreclosure hereof the said Mortgagor agrees to pay a reasonable attorney's fee, the same to be a lien upon the said premises and due and payable when suit is begun.

Also that the failure to pay when due any sum herein covenanted to be paid, or secured hereby, or the failure to comply with any of the agreements hereof, shall cause the whole debt to become due and collectible at the option of the Mortgagees without notice; that all money paid by the said Mortgagees for insurance, taxes, or water or ditch dues, rents or assessments, or any sum paid in protection of the lien of this mortgage shall bear interest from the date of such payment at the rate of 9 percent per annum, payable annually, and shall be secured hereby and collectible with the said principal note.

This mortgage and the note secured hereby shall be governed and construed according to the laws of the State of Idaho at the date of execution.

IN WITNESS WHEREOF the said Mortgagor hereunto subscribe their name this 9th day of March 1993.

SAGE WILLOW INC.

By: Edmund W. Dumke President
Edmund W. Dumke, President

STATE OF IDAHO)
) ss.
County of Bingham)

On this 9 day of ~~February~~ March 1993, before me, a notary public, personally appeared Edmund W. Dumke known to me to be the President, of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Anita McMurtrey
Notary Public for State of Idaho
Residing at Blackfoot, Idaho
Comm Exp: 5/20/94

My cmn exprs:

BLASER, SORENSEN & HANSEN, Chartered
P.O. Box 1047
Blackfoot, ID 83221
Telephone (208) 785-4700
Fax (208) 785-7080

FACSIMILE COVER SHEET

TO: Kurt Foster DATE: March 8, 1993
TIME SENT: 930 a.m. ____ p.m.

COMPANY: Hidden Hollow Water Co. FAX NO. 523-9518

CITY, STATE: Idaho Falls, Idaho CONFIRMATION NO.: _____

FROM:
Jim Sorensen

TRANSMITTED FROM BLASER, SORENSEN & HANSEN, Chartered
FAX NO. (208) 785-7080

NUMBER OF PAGES SENT (INCLUDING COVER SHEET): 8

IF THERE ARE ANY PROBLEMS DURING TRANSMITTAL, CALL: (208) 785-4700

****

CONFIDENTIALITY NOTICE: The documents accompanying this telecopy transmission may contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone to arrange for return of the original documents to us.

****

NOTES: _____

930021F.DOC

AGREEMENT

THIS AGREEMENT made and entered into by and between Terry Hawley, a single person dealing with his sole and separate property, and David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, whose address is in care of Terry Hawley at 675 South Shilling, Blackfoot, Idaho 83221, jointly referred to herein as "Seller," and Sage Willow Incorporated, a Nevada Corporation who is authorized to do business in the State of Idaho and whose address is 2416 Plaza Del Grande, Las Vegas, Nevada, hereinafter referred to as "Buyer."

R E C I T A L S

1. Seller owns property located in Butte County, Idaho, as described in the Warranty Deed attached hereto as Exhibit A;

2. Buyer desires to buy and Seller desires to sell said property including all water rights as therein described on the terms and conditions as herein set forth.

W I T N E S S E T H

FOR AND IN CONSIDERATION of the payments to be made and the covenants to be performed by the Buyer as herein set forth, the Seller does hereby contract and agree to sell and convey unto the Buyer all the property described in Exhibit A attached hereto.

IN CONSIDERATION of the foregoing covenant and agreement to sell, the Buyer contracts and agrees to purchase all of the above described property and to pay therefor the sum of TWO HUNDRED THOUSAND DOLLARS ($200,000.00) in the manner following, to-wit:

a. The sum of FIFTY THOUSAND DOLLARS ($50,000.00) down upon execution and delivery of this contract, the receipt of which is hereby acknowledged by Seller;

b. The balance of ONE HUNDRED FIFTY THOUSAND DOLLARS ($150,000.00) to be paid in quarterly installments of FIVE THOUSAND SEVEN HUNDRED TWENTY-SEVEN DOLLARS ($5,727.00) each quarter. Said quarterly payments are to be made on March 1, June 1, September 1, and December 1, of each year commencing with the first payment of FIVE THOUSAND SEVEN HUNDRED TWENTY-SEVEN DOLLARS ($5,727.00) on June 1, 1993.

c. All unpaid balances shall draw interest at the rate of 9 percent per annum from the date of this agreement, each payment made hereunder to be first applied to the payment of accrued interest and the balance to be applied on the principal sum.

The parties have agreed that the Mortgage Note, a copy of which is attached hereto as Exhibit B, will serve to evidence the obligation of Buyer to Seller.

1. MORTGAGE: To secure the Mortgage Note Buyer agrees to sign the Mortgage, a copy of which is attached as Exhibit C and made a part hereof by this reference. All obligations of the Buyer are as set forth in the Mortgage and the Mortgage Note.

2. The parties have previously entered into a Purchase-Sell Agreement and Receipt for Earnest Money dated January 7, 1993, a copy of which is attached hereto as Exhibit D and made a part hereof by this reference. This Agreement is intended to augment and expand upon that Purchase-Sell Agreement and Receipt for Earnest Money Agreement only.

3. WATER RIGHTS: The parties intend by this real estate sale and agreement to transfer all of the water rights as granted under the State of Idaho by license numbers 33-2086 and 33-7018. Seller is retaining fourty (40) acres of property and the water rights

under the above referred to license numbers are appurtenant to a portion of the fourty (40) acres being retained by Seller. Seller agrees that the water rights will be transferred by Buyer to other property. Seller hereby gives to Buyer a limited power of attorney to sign whatever documents are necessary to effect the transfer of such water rights as evidenced by State of Idaho License Numbers 33-2086 and 33-7018 to whatever lands Buyers desire. Seller hereby acknowledges and consents to any such transfer of the water rights as indicated in the above said license numbers.

4. The Buyer hereby acknowledges that Seller is retaining the said fourty (40) acres and a culinary well located on said fourty (40) acres, said well to be used primarily for culinary purposes.

5. The legal description of the property being transferred as expressed in the Warranty Deed and Mortgage (Exhibits A and C attached hereto), may need to be altered in the event there is a correction required. There are two wells located on this property herein transferred. It is the parties intent that one of the irrigation wells located on the northern part of the property in the NW1/4 SW1/4 Sec. 32, T8N, Range 28 East, of the Boise Meridian is to be included in the real estate description of the property being transferred by Seller to Buyer. Seller agrees that as soon as weather permits, at their expense, they will obtain a survey of the property and if the description as set forth in the Warranty Deed and Mortgage need to be corrected, such corrections will be made thereafter. Both parties agree to sign whatever documents are necessary to make any such corrections.

6. Buyer hereby acknowledges that it has made an independent examination and inspection of the above real and personal property

and all improvements thereon and is fully aware of the condition of the same and is not relying on any representations by Seller or Seller's agent or agents as to the condition of said property nor the location of boundary lines, nor as to the acreage or number of square feet or frontage contained in the real property described herein. Buyer has further been informed and understands that the property herein described has not been surveyed, and Seller is not responsible or liable to obtain or provide a survey of said property except in connection with the well which is being transferred to Buyer on the northern part of the property as set forth in paragraph 5 above.

7. In the event of any suit or proceeding of either party herein against the other party in any way arising out of this agreement in attempting to enforce any right herein granting, the losing party in such suit or proceeding shall pay to the prevailing party such sum or sums as the court shall adjudge reasonable, in such suit or proceeding, for attorney fees for such prevailing party.

8. BINDING AGREEMENT: This contract shall be binding upon the heirs, personal representatives, administrators, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinabove first written.

Seller: Buyer:

TERRY HAWLEY

SAGE WILLOW INCORPORATED
By: Edward W. Dumke, President

DAVID HAWLEY

CONNIE HAWLEY

STATE OF IDAHO)
) ss.
County of Bingham)

On this _____ day of February, 1993, before me, the undersigned, a notary public in and for said state, personally appeared Terry Hawley, and David Hawley and Connie Hawley, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Notary Public for State of Idaho
Residing at Blackfoot.

My cmn exprs:

STATE OF)
) ss.
County of)

On this _____ day of February, 1993, before me, a notary public, personally appeared Edward W. Dumke, known to me to be the President of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Notary Public for State of
Residing at

My cmn exprs:

AGREEMENT

THIS AGREEMENT made and entered into by and between Terry Hawley, a single person dealing with his sole and separate property, and David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, whose address is in care of Terry Hawley at 675 South Shilling, Blackfoot, Idaho 83221, jointly referred to herein as "Seller," and Sage Willow Incorporated, a Nevada Corporation who is authorized to do business in the State of Idaho and whose address is 2416 Plaza Del Grande, Las Vegas, Nevada, hereinafter referred to as "Buyer."

R E C I T A L S

1. Seller owns property located in Butte County, Idaho, as described in the Warranty Deed attached hereto as Exhibit A;

2. Buyer desires to buy and Seller desires to sell said property including all water rights as therein described on the terms and conditions as herein set forth.

W I T N E S S E T H

FOR AND IN CONSIDERATION of the payments to be made and the covenants to be performed by the Buyer as herein set forth, the Seller does hereby contract and agree to sell and convey unto the Buyer all the property described in Exhibit A attached hereto.

IN CONSIDERATION of the foregoing covenant and agreement to sell, the Buyer contracts and agrees to purchase all of the above described property and to pay therefor the sum of TWO HUNDRED THOUSAND DOLLARS ($200,000.00) in the manner following, to-wit:

a. The sum of FIFTY THOUSAND DOLLARS ($50,000.00) down upon execution and delivery of this contract, the receipt of which is hereby acknowledged by Seller;

b. The balance of ONE HUNDRED FIFTY THOUSAND DOLLARS ($150,000.00) to be paid in quarterly installments of FIVE THOUSAND SEVEN HUNDRED TWENTY-SEVEN DOLLARS ($5,727.00) each quarter. Said quarterly payments are to be made on March 1, June 1, September 1, and December 1, of each year commencing with the first payment of FIVE THOUSAND SEVEN HUNDRED TWENTY-SEVEN DOLLARS ($5,727.00) on June 1, 1993.

c. All unpaid balances shall draw interest at the rate of 9 percent per annum from the date of this agreement, each payment made hereunder to be first applied to the payment of accrued interest and the balance to be applied on the principal sum.

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1. MORTGAGE: To secure the Mortgage Note Buyer agrees to sign the Mortgage, a copy of which is attached as Exhibit C and made a part hereof by this reference. All obligations of the Buyer are as set forth in the Mortgage and the Mortgage Note.

2. The parties have previously entered into a Purchase-Sell Agreement and Receipt for Earnest Money dated January 7, 1993, a copy of which is attached hereto as Exhibit D and made a part hereof by this reference. This Agreement is intended to augment and expand upon that Purchase-Sell Agreement and Receipt for Earnest Money Agreement only.

3. WATER RIGHTS: The parties intend by this real estate sale and agreement to transfer all of the water rights as granted under the State of Idaho by license numbers 33-2086 and 33-7018. Seller is retaining thirty (30) acres of property and the water rights

under the above referred to license numbers are appurtenant to a portion of the thirty (30) acres being retained by Seller. Seller agrees that the water rights will be transferred by Buyer to other property. Seller hereby gives to Buyer a limited power of attorney to sign whatever documents are necessary to effect the transfer of such water rights as evidenced by State of Idaho License Numbers 33-2086 and 33-7018 to whatever lands Buyers desire. Seller hereby acknowledges and consents to any such transfer of the water rights as indicated in the above said license numbers.

4. The Buyer hereby acknowledges that Seller is retaining the said thirty (30) acres and a culinary well located on said thirty (30) acres, said well to be used primarily for culinary purposes.

5. The legal description of the property being transferred as expressed in the Warranty Deed and Mortgage (Exhibits A and C attached hereto), may need to be altered in the event there is a correction required. There are two wells located on this property herein transferred. It is the parties intent that one of the irrigation wells located on the northern part of the property in the NW1/4 SW1/4 Sec. 32, T8N, Range 28 East, of the Boise Meridian is to be included in the real estate description of the property being transferred by Seller to Buyer. Seller agrees that as soon as weather permits, at their expense, they will obtain a survey of the property and if the description as set forth in the Warranty Deed and Mortgage need to be corrected, such corrections will be made thereafter. Both parties agree to sign whatever documents are necessary to make any such corrections.

6. Buyer hereby acknowledges that it has made an independent examination and inspection of the above real and personal property

and all improvements thereon and is fully aware of the condition of the same and is not relying on any representations by Seller or Seller's agent or agents as to the condition of said property nor the location of boundary lines, nor as to the acreage or number of square feet or frontage contained in the real property described herein. Buyer has further been informed and understands that the property herein described has not been surveyed, and Seller is not responsible or liable to obtain or provide a survey of said property except in connection with the well which is being transferred to Buyer on the northern part of the property as set forth in paragraph 5 above.

7. In the event of any suit or proceeding of either party herein against the other party in any way arising out of this agreement in attempting to enforce any right herein granting, the losing party in such suit or proceeding shall pay to the prevailing party such sum or sums as the court shall adjudge reasonable, in such suit or proceeding, for attorney fees for such prevailing party.

8. BINDING AGREEMENT: This contract shall be binding upon the heirs, personal representatives, administrators, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinabove first written.

Seller:

TERRY HAWLEY

DAVID HAWLEY

CONNIE HAWLEY

Buyer:

SAGE WILLOW INCORPORATED
By: Edward W. Dumke, President

STATE OF IDAHO)
) ss.
County of Bingham)

On this _____ day of February, 1993, before me, the undersigned, a notary public in and for said state, personally appeared Terry Hawley, and David Hawley and Connie Hawley, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Notary Public for State of Idaho
Residing at Blackfoot

My cmn exprs:

STATE OF)
) ss.
County of)

On this _____ day of February, 1993, before me, a notary public, personally appeared Edward W. Dumke, known to me to be the President of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

_____
Notary Public for State of
Residing at

My cmn exprs:

WARRANTY DEED 930021D.DOC

FOR VALUE RECEIVED Terry Hawley, a single person dealing with his sole and separate property; David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, the Grantors, do hereby grant, bargain, sell, and convey unto Sage Willow Inc., the Grantee, whose current address is 2416 Plaza Del Grande, Las Vegas, Nevada, 89102 the following described premises, to-wit:

DESCRIPTION OF A PARCEL OF PROPERTY
Within: SEC. 32, T8N, R28E, B.M., the S1/2SW1/4
and a portion of NW1/4SW1/4 and
Within: SEC. 5, T7N, R28E, B.M., the NE1/4SW1/4
and a portion of the NW1/4
Little Lost River Valley, Butte County, Idaho

A single parcel of property to be described by metes and bounds:

Commencing at a 1/2" rebar marking the SW Corner of Sec. 32, T8N, R28E, B.M., and the NW corner of Sec. 5, T7N, R28E, B.M., Butte County, Idaho, said corner lying S 00°19'15" E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.

Thence N 00°19'15" W, 1316.20 feet along the Westerly boundary of said Sec. 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15" W, 990.00 feet along said section line;
thence N 90°00'00" E, 40.00 feet;
thence S 00°19'15" E, 990 feet, more or less, to the northerly 1/16 boundary line of the SW1/4 SW1/4 of said Sec. 32;
thence Easterly, 1280 feet, more or less, along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Sec. 32;
thence Easterly, 1320 feet, more or less, along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of said Sec. 32;
thence Southerly, 1320 feet, more or less, along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Sec. 32 and Sec. 5, T7N, R28E, B.M.;
thence S 00°04'18" W, 3895.50 feet to the CS 1/16 Corner of Sec. 5; thence 89°54'05" W, 1321.30 feet to the SW 1/16 Corner;
thence N 00°11'50" E, 1316.47 feet to the CW 1/16 Corner;
thence S 89°48'09" W, 391.71 feet along the 1/4 section line;
thence N 31°41'39" W, 149.59 feet;

Ex. A

thence N 03°42'07" W, 442.43 feet;
thence N 21°07'24" W, 283.84 feet;
thence N 39°11'32" W, 176.63 feet'
thence N 27°52'36" W, 266.90 feet;
thence N 50°23'36" W, 58.75 feet;
thence N 39°08'42" W, 656.73 feet;
thence N 89°52'48" W, 9.70 feet to the westerly boundary of said Section 5;
thence N 00°19'27" E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning.

Also contained within this description are 2 60-foot wide roads: 1) The Howe Northwest Highway 2) A county road within the NW1/4 Sec. 5.

Said described property contains 252 acres, more or less, minus 6.5 acres, more of less, within said roads for a net acreage of 245.5 acres, more of less.

(Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected the parties agree to make such corrections.)

EXCEPTING THEREFROM Oil and Gas rights, and particularly Oil and Gas Lease and Assignment thereof.

TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-0718.

TOGETHER With all irrigation equipment including the following:

1. Motor, U.S. Motors, 50 HP #882566
2. Pump, Berkley, Mod #1200SH-3, with panel #5110301
3. Pump, G.E. Motor, 50 HP Model #5K6248XH4A, #FHJ628450
4. Pump, Verti Line Layne Bowler, Model 14RL, #18 2110

Together with tenements, hereditaments, appurtenances, ditches and ditch rights and water and water rights thereunto belonging or in anywise appertaining.

Subject to reservations in United States patents and State deeds or other restrictions imposed by law, easements and right-of-way, zoning and building ordinances, use restrictions of record, and taxes and assessments for the year 1993 and thereafter.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, it's heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED and signed this _____ day of February 1993.

_____ _____

David Hawley Connie Hawley

_____

Terry Hawley

STATE OF IDAHO)
) ss.
County of Bingham)

On this _____ day of February 1993, before me, the undersigned, a notary public in and for said state, personally appeared David Hawley and Connie Hawley, husband and wife, known to me to be the person whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

_____
Notary Public for State of Idaho
Residing at Blackfoot, Idaho

My cmn exprs:

STATE OF IDAHO)
) ss.
County of Bingham)

On this _____ day of February 1993, before me, the undersigned, a notary public in and for said state, personally appeared Terry Hawley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Notary Public for State of Idaho
Residing at Blackfoot

My cmn exprs:

MORTGAGE PROMISSORY NOTE 930021E.DOC

$150,000.00 Blackfoot, Idaho

1. BORROWER'S PROMISE TO PAY

Borrower is Sage Willow Inc., a Nevada Corporation, whose address is 2416 Plaza Del Grande, Las Vegas, Nevada, 89102, herein referred to as Sage Willow. In return for a loan that Sage Willow has received, Sage Willow promises to pay ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00), (this amount is called "principal"), plus interest to the order of the Lender. The Lender is Terry Hawley, a single person dealing with his sole and separate property, David E. Hawley, a/k/a David Hawley, and/or Connie Hawley, husband and wife of 675 S. Shilling, Blackfoot, Idaho, 83221. Sage Willow understands that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder".

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. Sage Willow will pay interest at a yearly rate of nine percent (9%).

The interest rate required by Section 2 is the rate Sage Willow will pay both before and after any default described in Section 5(b) of this Note.

Ex B

3. PAYMENTS

(a) Time and Place of Payments:

Sage Willow will pay principal and interest by making quarterly payments.

Sage Willow will make it's quarterly payments on the 1st day of March, June, September, and December of each year beginning June 1, 1993. Sage Willow will make these payments every quarter until it has paid all of the principal and interest and any other charges described below that it may owe under this Note. Sage Willow's quarterly payments will be applied to the interest before principal. If, on March 1, 2003, Sage Willow stills owe amounts under this Note, it will pay those amounts in full on that date, which is called the "maturity date".

Sage Willow will make it's quarterly payments at 675 S. Shilling, Blackfoot, Idaho, 83221, or at a different place if required by the Note Holder.

(b) Amount of Quarterly Payments:

Sage Willow's quarterly payment will be in the amount of FIVE THOUSAND SEVEN HUNDRED TWENTY SEVEN AND NO/100 DOLLARS ($5,727.00).

4. BORROWER'S RIGHT TO REPAY

Sage Willow has the right to make payments of principal at any time after January 1, 1995, before they are due. A payment of principal only is known as a "prepayment". When Sage Willow makes a prepayment, it will tell the Note Holder in writing that it is doing so.

Sage Willow may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of Sage Willow's prepayments to reduce the amount of principal that it owes under this Note. If Sage Willow makes a partial prepayment, there will be no changes in the due date or in the amount of it's quarterly payment unless the Note Holder agrees in writing to those changes.

5. BORROWER'S FAILURE TO PAY AS REQUIRED

(a) Late Charge for Overdue Payments:

If the Note Holder has not received the full amount of any quarterly payment by the end of 15 calendar days after the date it is due, Sage Willow will pay a late charge to the Note Holder. The amount of the charge will be One Hundred Fifty And No/100 Dollars ($150.00) of our overdue payment of principal and interest. Sage Willow will pay this late charge promptly but only once on each late payment.

(b) Default:

If Sage Willow does not pay the full amount of each quarterly payment on the date it is due, it will be in default.

(c) Notice of Default:

If Sage Willow is in default, the Note Holder may send it a written notice telling it that if it does not pay the overdue amount by a certain date, the Note Holder may require it to pay immediately the full amount of principal which has not been paid and all the interest that it owes on that amount. The date must be

at least 30 days after the date on which the notice is delivered or mailed to Sage Willow.

(d) No Waiver by Note Holder:

Even if, at a time when Sage Willow is in default, the Note Holder does not require it to pay immediately in full as described above, the Note Holder will still have the right to do so if Sage Willow is in default at a later time.

(e) Payment of Note Holder's Costs and Expenses:

If the Note Holder has required Sage Willow to pay immediately in full as described above, the Note Holder will have the right to be paid back by Sage Willow for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorney's fees.

6. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to Sage Willow under this Note will be given by delivering it or by mailing it first class mail to Sage Willow at the property address above or at a different address if Sage Willow gives the Note Holder a notice of it's different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(a) above or at a different address if Sage Willow is given a notice of that different address.

7. OBLIGATIONS OF PERSONS ENTERING UNDER THIS NOTE

If Borrower consists of 2 or more persons or is a corporation, each person or corporation is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over the obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

8. WAIVERS

Sage Willow and any other persons who have obligations under this Note waive the rights of presentments and notice of dishonor. "Presentment" means the rights to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

9. UNIFORM SECURED NOTE

This Note is secured by a Mortgage on real property located in Butte County, Idaho, dated the same date as this Note, and this protects the Note Holder from possible losses which might result if Sage Willow does not keep the promises which it makes in this Note. The Mortgage described how and under what conditions Sage Willow

may be required to make immediate payment in full for all amounts it owes under this Note.

WITNESS THE HANDS AND SEALS OF THE UNDERSIGNED.

SAGE WILLOW INC.

_____
by Edmund W. Dumke, President

Attest:_____
Secretary

REAL ESTATE MORTGAGE 930021C.DOC

THIS MORTGAGE made by Sage Willow INC., A Nevada Corporation, 2416 Plaza Del Grande, Las Vegas, State of Nevada, Mortgagor, and Terry Hawley, a single person dealing with his sole and separate property; David E. Hawley, a/k/a David Hawley, and Connie Hawley, husband and wife, whose address is 675 Shilling, Blackfoot, of the County of Bingham, State of Idaho, Mortgagees.

WITNESSETH that the said Mortgagor, in consideration of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00) the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, and conveys unto the said Mortgagees and assigns forever, the following real estate situated in Butte County, State of Idaho, to-wit:

DESCRIPTION OF A PARCEL OF PROPERTY
Within: SEC. 32, T8N, R28E, B.M., the S1/2SW1/4
and a portion of NW1/4SW1/4 and
Within: SEC. 5, T7N, R28E, B.M., the NE1/4SW1/4
and a portion of the NW1/4
Little Lost River Valley, Butte County, Idaho

A single parcel of property to be described by metes and bounds:

Commencing at a 1/2" rebar marking the SW Corner of Sec. 32, T8N, R28E, B.M., and the NW corner of Sec. 5, T7N, R28E, B.M., Butte County, Idaho, said corner lying S 00°19'15" E, 5264.79 feet from a 1/2" rebar marking the NW Corner of Section 32, and said Corner being the True Point of Beginning.

Thence N 00°19'15" W, 1316.20 feet along the Westerly boundary of said Sec. 32 to the S 1/16 Corner common to Sections 31 and 32; thence N 00°19'15" W, 990.00 feet along said section line; thence N 90°00'00" E, 40.00 feet;
thence S 00°19'15" E, 990 feet, more or less, to the northerly 1/16 boundary line of the SW1/4 SW1/4 of said Sec. 32;
thence Easterly, 1280 feet, more or less, along said northerly 1/16 line of the SW1/4 SW1/4 to the SW 1/16 corner of said Sec. 32;

Ex. C

thence Easterly, 1320 feet, more or less, along the northerly 1/16 boundary line of SE1/4 SW1/4 to the CS 1/16 Corner of said Sec. 32;
thence Southerly, 1320 feet, more or less, along the easterly 1/16 boundary line of SE1/4 SW1/4 to the 1/4 Corner common to said Sec. 32 and Sec. 5, T7N, R28E, B.M.;
thence S 00°04'18" W, 3895.50 feet to the CS 1/16 Corner of Sec. 5; thence 89°54'05" W, 1321.30 feet to the SW 1/16 Corner;
thence N 00°11'50" E, 1316.47 feet to the CW 1/16 Corner;
thence S 89°48'09" W, 391.71 feet along the 1/4 section line;
thence N 31°41'39" W, 149.59 feet;
thence N 03°42'07" W, 442.43 feet;
thence N 21°07'24" W, 283.84 feet;
thence N 39°11'32" W, 176.63 feet'
thence N 27°52'36" W, 266.90 feet;
thence N 50°23'36" W, 58.75 feet;
thence N 39°08'42" W, 656.73 feet;
thence N 89°52'48" W, 9.70 feet to the westerly boundary of said Section 5;
thence N 00°19'27" E, 826.90 feet along the westerly boundary of said Section 5 to the True Point of Beginning.
Also contained within this description are 2 60-foot wide roads: 1) The Howe Northwest Highway 2) A county road within the NW1/4 Sec. 5.
Said described property contains 252 acres, more or less, minus 6.5 acres, more of less, within said roads for a net acreage of 245.5 acres, more of less.

(Note: The parties intend by this description to include an irrigation well and sufficient area surrounding said irrigation will for access, operation, use, maintenance and repair of the well. As soon as the weather permits, grantor shall obtain a formal survey of the land intended to be conveyed where the irrigation well is located. If this description needs to be corrected the parties agree to make such corrections.)

EXCEPTING THEREFROM Oil and Gas rights, and particularly Oil and Gas Lease and Assignment thereof.

TOGETHER With all water and ditch rights appurtenant thereto, including, but not limited to: State of Idaho Water Rights License Nos. 33-2086 and 33-7018.

TOGETHER With all irrigation equipment including the following:

1. Motor, U.S. Motors, 50 HP #882566
2. Pump, Berkley, Mod #1200SH-3, with panel #5110301
3. Pump, G.E. Motor, 50 HP Model #5K6248XH4A, #FHJ628450
4. Pump, Verti Line Layne Bowler, Model 14RL, #18 2110

TOGETHER with all the improvements, privileges and appurtenances thereunto belonging and all rights of homestead exemption; together with all ditch and water rights of every nature, however evidenced, used on the said land or belonging to the same or said Mortgagor, which may be hereafter acquired or used upon said land. Said Mortgagor hereby warrants the title to said land and water rights against all persons whomsoever, and agrees to defend the same. The parties have agreed that part or all of the water rights included in State of Idaho Water Rights License Nos. 33-2086 and 33-7018 may be transferred to other property. If that occurs, Mortgagor agrees that this mortgage secures said State of Idaho Water Rights License Nos. 33-2086 and 33-7018 regardless of said transfer. If foreclosure is necessary, any water rights so transferred shall be immediately transferred back to the land herein described.

THIS CONVEYANCE is intended as a mortgage to secure the payment of a certain promissory note of even date herewith for ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00), executed and delivered by the said Mortgagor, to the said Mortgagees.

The date of maturity of the obligation or indebtedness secured hereby is the 1st day of March 2003.

The said Mortgagor hereby covenants and agrees to pay, before the same becomes delinquent, all taxes and assessments upon said premises, or this mortgage, or the debt secured hereby, laid or assessed in Butte County, also personal taxes; also all dues or assessments upon said ditch or water rights or water stock, and in the event of default so to do, the holder hereof may pay the same; to keep the buildings located upon said premises insured in the sum of at least equal to their value, with loss, if any, payable to the said Mortgagees or assigns, in some company to be approved by the Mortgagees, and deliver all policies and the renewals thereof to the said Mortgagees, and in the event of a default so to do, the holder hereof may insure the same. In case of the foreclosure hereof the said Mortgagor agrees to pay a reasonable attorney's fee, the same to be a lien upon the said premises and due and payable when suit is begun.

Also that the failure to pay when due any sum herein covenanted to be paid, or secured hereby, or the failure to comply with any of the agreements hereof, shall cause the whole debt to become due and collectible at the option of the Mortgagees without notice; that all money paid by the said Mortgagees for insurance, taxes, or water or ditch dues, rents or assessments, or any sum paid in protection of the lien of this mortgage shall bear interest from the date of such payment at the rate of 9 percent per annum, payable annually, and shall be secured hereby and collectible with the said principal note.

This mortgage and the note secured hereby shall be governed and construed according to the laws of the State of Idaho at the date of execution.

IN WITNESS WHEREOF the said Mortgagor hereunto subscribe their name this_____ day of_____.

SAGE WILLOW INC.

By: _____
Edmund W. Dumke, President

STATE OF IDAHO)
) ss.
County of Bingham)

On this _____ day of February 1993, before me, a notary public, personally appeared Edmund W. Dumke known to me to be the President, of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

_____
Notary Public for State of Idaho
Residing at Blackfoot, Idaho

My cmn exprs:

AGRILANDS
P.O. Box 1788
Idaho Falls, ID 83403-1788
(208) 524-4070

Purchase Sale Agreement & Receipt for Earnest Money

This is a legally binding contract. Read the entire document, including the general printed provisions on the reverse side and any attachments, carefully, *BEFORE* signing. If you have any questions, consult your attorney *BEFORE* signing.

Howe, Idaho January 7, 93

Sagewillow, Inc. (herein after called "Buyer") agrees to purchase and
Hawley Farms David Hawley & Terry Hawley (hereinafter called "Seller") agrees to sell the
following property located in County of Burra, State of Idaho, commonly known as
Hawley Farms and legally described as to be attached
Less 30 acres in Sec 32 T8N Rng 28 E.B.M. homes and outbuildings.
consisting of 250 acres more or less

A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, OR ATTACHED HERETO PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes Broker to insert such legal description of the property if it is unavailable at the time of signing, or to correct the legal description previously inserted if erroneous or incomplete.

1. EARNEST MONEY
(a) Buyer herewith deposits and receipt is hereby acknowledged of Five Thousand ----------00/00 ($ 5,000.00) in the form of ☐ Cash ☒ Personal Check ☐ Cashier's Check ☐ Mass Deed _____ or ☐ _____, 19__.
(b) Said Earnest Money to be deposited ☒ to await acceptance upon acceptance by all parties, or ☐ _____ and held by ☒ Listing Broker ☐ Selling Broker, ☐ Other _____ for the benefit of the parties hereto, upon the listing Buyer shall hold the fully executed Broker's copy of this agreement.
2. TOTAL PURCHASE PRICE IS: $ Two Hundred Thousand--------00/00 ($ 200,000.00) payable as follows:
(a) $ _____ Cash down, including the above deposited Earnest Money.
(b) $ _____ Balance of the purchase price which does not include Mortgage Insurance Premium where applicable, which will be paid as follows:
$200,000.00 ~~payable yearly~~ Seller to transfer their interest in o+l, mineral rights. Buyer and Seller to split closing costs 50/50 %. Seller to pay for 30 acre survey. TERMS: 25% cash at closing, 75% payable at 9% per annum, payments of principal and interest on quarterly basis, amorrized over 10 years. Prepayment allowed no prepayment penalty. Sellers have Right of First Refusal rights.
3. If there are contingencies listed herein, Seller ☐ shall, ☒ shall not have the right to continue to offer the property for sale. If the property is to remain on the market, the provisions of Paragraph 1 on the reverse side hereof will apply and the number of days applicable to Paragraph 1 shall be n/a banking days.
4. The following items are specifically EXCLUDED FROM THE SALE: 30 acres, house and outbuildings
All water rights including but not limited to
The following items are specifically EXCLUDED IN THE SALE: water licenses -- Nos. 33-2086 & 33-0718
All pumps and any other equipment used in the operation of seller's wells located on seller's property.
Liens, encumbrances or defects in title to the property which are to be discharged by Seller, assumed or waived by the Buyer or which title will be taken subject to by the Buyer (not exhaustive) are: n/a
5. Title to be evidenced by a standard form ☐ Owner's Policy of Title Insurance ☐ Abstract of Title certified to date, at the expense of First American Title Company shall provide the title policy and preliminary report of commitment mentioned herein.
6. If a long term escrow/collection is involved, the escrow holder shall be n/a
7. CLOSING. The "closing agent" shall be First American Title. The Buyer responsible for closing is Agrilands Inc. On or before the closing date, Buyer and Seller shall deposit with the closing agent all funds and instruments necessary to complete the sale. The closing date shall be on or before after water testing is complete and satisfied
8. POSSESSION. Seller shall deliver possession to Buyer on or before date of closing, and taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on loans, liens, or obligations assumed or taken subject to, and utilities shall be prorated as of date of closing, except n/a
9. AGENCY DISCLOSURE. At the time of the signing of this agreement the agent working with the Buyer represented seller, and the agent working with the Seller represented seller. Each party signing this document confirms that prior to the time of signing this document, such party received the pamphlet on agency and was provided an opportunity to review it. Each party to this transaction has read and understands the contents of the agency disclosure brochure previously received.
10. ACCEPTANCE. Seller shall have until the _____ day of water testing exclusion above _____, o'clock ☐ A.M. ☐ P.M. local time at the location of the subject property to accept this offer. Unless accepted, this offer shall lapse and the Broker shall return the Earnest Money to the Buyer. $ 960 2
11. BUYER'S SIGNATURE(S)
Buyer X Sagewillow Inc. Address 2416 Plaza del Grandelos Vegas Nv
Buyer Edmund W. Dumke Pres Phone (H) _____ (W) _____
12. ACCEPTANCE BY SELLER. The undersigned Seller accepts Buyer's offer this 14 day of Jan, 19 93, 12 o'clock ☐ A.M. ☐ P.M. and Seller agrees to pay a total brokerage fee of $ 12001 to Agrilands (Brokerage) for services, payable at closing.
Seller Terry J Hawley Address 675 S Hillcrest Blackfoot Idaho
Seller David Hawley Phone (H) _____ (W) _____

STATE OF Idaho
County of Bingham
On this 14th day of Jan, in the year of 19 93 before me, _____ personally appeared David & Terry Hawley known or identified to me, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.
Rueel D Reed
NOTARY PUBLIC FOR Idaho
Residing at Rigby My Bond Expires 3-4- 19 93

DOCUMENT RECEIPT: (Alternative A or B must be completed.)
☐ A. I/We acknowledge receipt of a complete copy of the foregoing Agreement bearing all signatures above this line.
SIGNATURE OF SELLER(S) SIGNATURE OF BUYER(S)
Terry J Hawley Date 1/14/93 _____ Date _____
_____ Date _____ _____ Date _____
☐ B. I subsequently received a true, correct and complete copy of the foregoing Agreement bearing all signatures to be executed on _____, 19__
by Certified Mail, return receipt requested to the ☐ Seller, ☐ Buyer. Sent by _____

Ex D

BLASER, SORENSEN & HANSEN, Chartered
P.O. Box 1047
Blackfoot, ID 83221
Telephone (208) 785-4700
Fax (208) 785-7080

FACSIMILE COVER SHEET

TO: Kent Foster DATE: February 11, 1993
TIME SENT: 1:30 a.m. ___ p.m.

COMPANY: Holden, Kidwell, Hahn FAX NO. 523-9518

CITY, STATE: Idaho Falls, Idaho CONFIRMATION NO.: ___

FROM:
Jim Sorensen

TRANSMITTED FROM BLASER, SORENSEN & HANSEN, Chartered
FAX NO. (208) 785-7080

NUMBER OF PAGES SENT (INCLUDING COVER SHEET): 2

IF THERE ARE ANY PROBLEMS DURING TRANSMITTAL, CALL: (208) 785-4700

****

CONFIDENTIALITY NOTICE: The documents accompanying this telecopy transmission may contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone to arrange for return of the original documents to us.

****

NOTES: Terry Hawley/Sage Valley Inc.

AGRILANDS
P.O. Box 1788
Idaho Falls, ID 83403-1788
(208) 524-4070

Purchase Sale Agreement & Receipt for Earnest Money

This is a legally binding contract. Read the entire document, including the general printed provisions on the reverse side and any attachments, carefully. BEFORE signing. If you have any questions, consult your attorney BEFORE signing.

Howe, Idaho January 7, 93

Sagewillow, Inc. (hereinafter called "Buyer") agrees to purchase and
Hawley Farms David Hawley & Terry Hawley (hereinafter called "Seller") agrees to sell the
following property located in County of Burre, State of Idaho, commonly known as
Hawley Farms and legally described as to be attached
Less 30 acres in Sec 32 T8N, Rng 28 E.B.M., homes and outbuildings
consisting of 250 acres more or less

A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, OR ATTACHED HERETO PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes Broker to correct the legal description of the property if it is incomplete or inaccurate at the time of signing, or to correct the legal description previously entered if omissions or inaccuracies.

1. EARNEST MONEY
(a) Buyer herewith deposits and receipt is hereby acknowledged of Five Thousand ----------00/00 ($ 5,000.00) in the form of ☐ Cash ☒ Personal Check ☐ Cashier's Check ☐ Note Due ____ or ☐ ____, 19__.
(b) Said Earnest Money to be deposited XXX in trust account upon acceptance by all parties, or ☐ ____ for the benefit of the parties hereto, and held by ☒ Listing Broker ☐ Selling Broker, ☐ Other ____. Broker shall hold the fully executed broker's copy of this agreement and the listing ____ payable as follows:

2. TOTAL PURCHASE PRICE IS: $ Two Hundred Thousand----------00/00 ($ 200,000.00)
(a) $ ____ Cash down, including the above described Earnest Money.
(b) $ ____ Balance of the purchase price which does not include Mortgage Insurance Premium where applicable, which will be paid as follows:
$200,000.00 payable as follows: Seller to transfer their interest in oil, mineral rights. Buyer and Seller to split closing costs 50/50 %, Seller to pay for 30 acre survey. TERMS: 25% cash at closing, 75% payable at 9% per annum, payments of principal and interest on quarterly basis, amortized over 10 years. Prepayment allowed no prepayment penalty. Seller to have ____ oil and mineral rights ____

3. If there are condominium related bonds, Seller ☐ shall, ☒ shall not have the right to condominium after the property is for sale. If the property is to remain on the market, the provisions of Paragraph 1 on the reverse side hereof will apply and the number of days applicable to Paragraph 1 shall be n/a banking days.

4. The following items are specifically EXCLUDED FROM THE SALE: 30 acres, house and outbuildings

The following items are specifically INCLUDED IN THE SALE: All water rights including but not limited to water licenses -- Nos. 33-2086 & 33-0716 All pumps and any other equipment used in the operation of seller's wells located on seller's property.

Less, assumable and/or delinquent liens to be prorated by Seller, assumed or balanced by the Buyer or which title will be taken subject to by the Buyer (not otherwise set forth herein) n/a

5. Title Company First American Title shall provide the title policy and preliminary report of commitment required herein.

6. If a long term mortgage application is involved, the escrow agent shall be n/a. The broker responsible for closing is

7. CLOSING. The "closing agent" shall be First American Title Agrilands Inc. On or before the closing date, Buyer and Seller shall deposit with the closing agent all funds and instruments necessary to complete the sale. The closing date shall be on or before after water testing is complete and satisfied date of closing, and upon completion of all conditions and covenants hereof, Seller shall deliver possession to Buyer on or before date of closing.

8. POSSESSION. Seller shall deliver possession to Buyer on or before date of closing (subject to the last available assessment on a taxes, rents, insurance premiums, leases and interest on loans, liens, or obligations assumed or taken subject to, and utilities shall be prorated as of date of closing except n/a and the agent shall be entitled to retain for its commission out of Seller's proceeds the sum of $ ____.

9. AGENCY DISCLOSURE. At the time of the signing of this agreement the agent working with the Buyer represented Seller and the agent working with the Seller represented seller. Each party to this document confirms that prior written disclosure of agency was provided to him/her in this transaction. Each party to the transaction has read and understands the contents of the agency disclosure brochure previously received.

10. ACCEPTANCE. Seller shall have until the ____ day of water testing exclusion above ____ o'clock ☐ A.M. ☐ P.M. local time at the location of the subject property to accept this offer. Unless accepted, this offer shall lapse and the Earnest Money be the Buyer. $ 9102

11. BUYER'S SIGNATURE(S)
Buyer X Sagewillow Inc. Address 7416 Plaza del Coronados Vegas Nv
Buyer Edmund W. Bomba Pres Phone (H) ____ (W) ____
12. ACCEPTANCE BY SELLER. The undersigned Seller accepts Buyer's offer on ____ day of Jan 14 19 93 12 o'clock ☐ A.M. ☐ P.M. and hereby agrees to pay a total brokerage fee of $ 12000 to Agrilands (Brokerage) for services rendered at closing.
Name Terry Hawley Address 625 S Hilling Rexburg Idaho
Seller David Hawley Phone: (H) ____ (W) ____

STATE OF Idaho, County of Bingham, ss.
On this 14th day of Jan, in the year of 19 93, before me, ____, personally appeared David & Terry Hawley known or identified to me, to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that They executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.
NOTARY PUBLIC FOR Idaho Residing at Blackfoot My Bond Expires 2-4- 19 93

DOCUMENT RECEIPT: (Alternative A or B must be completed).
☐ A. I/We acknowledge receipt of a complete copy of the foregoing Agreement bearing all signatures above this line.
SIGNATURE OF SELLER(S) SIGNATURE OF BUYER(S)
Terry Hawley Date 1/14/93 Date ____
Date ____ Date ____
☐ B. I previously received a true, correct and complete copy of the foregoing agreement bearing all signatures to be received on ____, 19__.
By Certified Mail, return receipt requested to: ☐ Seller, ☐ Buyer. Sent by: ____

T4221 SAGEWILLOW INC Withdrawn

Form 222
1-87

RECEIVED
SEP 20 1993
Department of Water Resources

Page 1 of 12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4221

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of water on land owned by applicant, some of which will be brought under sprinkler irrigation.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02057A	02/01/1950	5.06 cfs	Irrigation	04/01 to 11/01
33-02083A	08/23/1957	1.06 cfs	Irrigation	04/01 to 11/01
33-02086A	01/12/1959	1.37 cfs	Irrigation	04/01 to 11/01
33-02091A	01/22/1960	4.26 cfs	Irrigation	04/01 to 11/01

2. Total amount of water being transferred 11.75 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water ground water tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	SW	32	8N	28E	Butte	Well No. 12
	SE	SE	NE	2	7N	27E	Butte	Well No. 11

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1	33	33	33	33	33	40	40	33									278
7N	28E	5					25	20											45
		6		33	33		38	38	33	33									208
8N	28E	31									24	24	37	37					122
		32											25	35					60

MAR 27 1996

Total acres 713

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Wells and electric pumps.

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

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

Portions of the lands now irrigated will no longer be irrigated and other portions will be irrigated under other water rights.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 33-02057A, -02083A, -02086A, & 02091A

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

Pursuant to Final Order.

Witness my hand this 12th day of March, 19 96

Karl J. Dreher, Director

MAR 27 1996

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 33-02057

STAGE: **LICENSE**

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE
IRRIGATION	to	24.00 CFS
DOMESTIC	to	
	Totals	24.00 CFS

SOURCE

GROUNDWATER

Priority: 02/01/1950

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 12, Township 07N, Range 27E
NWNE , Sec. 12, Township 07N, Range 27E
NENW , Sec. 12, Township 07N, Range 27E
SESE , Sec. 12, Township 07N, Range 27E
NWSW , Sec. 7, Township 07N, Range 28E
SWSW , Sec. 7, Township 07N, Range 28E
BUTTE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
07N	27E	1	SWSW	31	SESW	40			71
		12	NENE	40	NWNE	40	SWNE	40	
			SENE	40	NENW	40	NWNW	30	
			SWNW	10	NESW	15	SESW	40	
			SESE	40					335
		13	NENE	40	NWNE	40	NENW	40	120
	28E	7	NENE	40	NWNE	40	SWNE	40	
			SENE	40	NENW	40	NWNW	38	
			SWNW	38	SENW	40			316
		8	NWNE	5	SWNE	15	NWNW	10	
			NWSE	30	SWSE	30			90
		17	SWSW	30					30
		18	SWNE	40	SENE	40	NWNW	39	
			SWNW	25	SENW	40	NESE	40	224
08N	27E	34	SWNE	37	SENW	40	NESW	40	
			NWSW	35	SWSW	30	SESW	35	
			NWSE	40	SWSE	40			297
					Total number of acres irrigated:				1483

MAR 2 7 1996

Page _____ of _____

TRANS NO. 4221

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 33-02083

STAGE: LICENSE

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE
IRRIGATION	to	5.00 CFS

SOURCE

GROUNDWATER

Priority: 08/23/1957

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 12, Township 07N, Range 27E
NWNE , Sec. 12, Township 07N, Range 27E
NENW , Sec. 12, Township 07N, Range 27E
SESE , Sec. 12, Township 07N, Range 27E
NWSW , Sec. 7, Township 07N, Range 28E
SWSW , Sec. 7, Township 07N, Range 28E
BUTTE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
07N	27E	1	SWSW	31	SESW	40			71
		12	NENE	40	NWNE	40	SWNE	40	
			SENE	40	NENW	40	NWNW	30	
			SWNW	10	NESW	15	SESW	40	
			SESE	40					335
		13	NENE	40	NWNE	40	NENW	40	120
	28E	7	NENE	40	NWNE	40	SWNE	40	
			SENE	40	NENW	40	NWNW	38	
			SWNW	38	SENW	40			316
		8	NWNE	5	SWNE	15	NWNW	10	
			NWSE	30	SWSE	30			90
		17	SWSW	30					30
		18	SWNE	40	SENE	40	NWNW	39	
			SWNW	25	SENW	40	NESE	40	224
08N	27E	34	SWNE	37	SENW	40	NESW	40	
			NWSW	35	SWSW	30	SESW	35	
			NWSE	40	SWSE	40			297
					Total number of acres irrigated:				1483

CONDITIONS/REMARKS:

MAR 2 7 1996

Page _____ of _____ TRANS NO. 4221

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 33-02086

STAGE: LICENSE

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE
IRRIGATION	to	4.10 CFS

SOURCE

GROUNDWATER

Priority: 01/12/1959

LOCATION OF POINT(S) OF DIVERSION: NWSW , Sec. 32, Township 08N, Range 28E
BUTTE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
07N	28E	5	NENW	35	NWNW	38	SWNW	33	
			SENW	36	NESW	31			173
08N	28E	32	NWSW	31	SWSW	39	SESW	17	87
					Total number of acres irrigated:				260

CONDITIONS/REMARKS:

MAR 2 7 1996

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 33-02091

STAGE: LICENSE

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
IRRIGATION	04/15 to 10/15	4.36 CFS	1120.0 AF

SOURCE

GROUNDWATER

Priority: 01/22/1960

LOCATION OF POINT(S) OF DIVERSION: NESW , Sec. 6, Township 07N, Range 28E BUTTE County

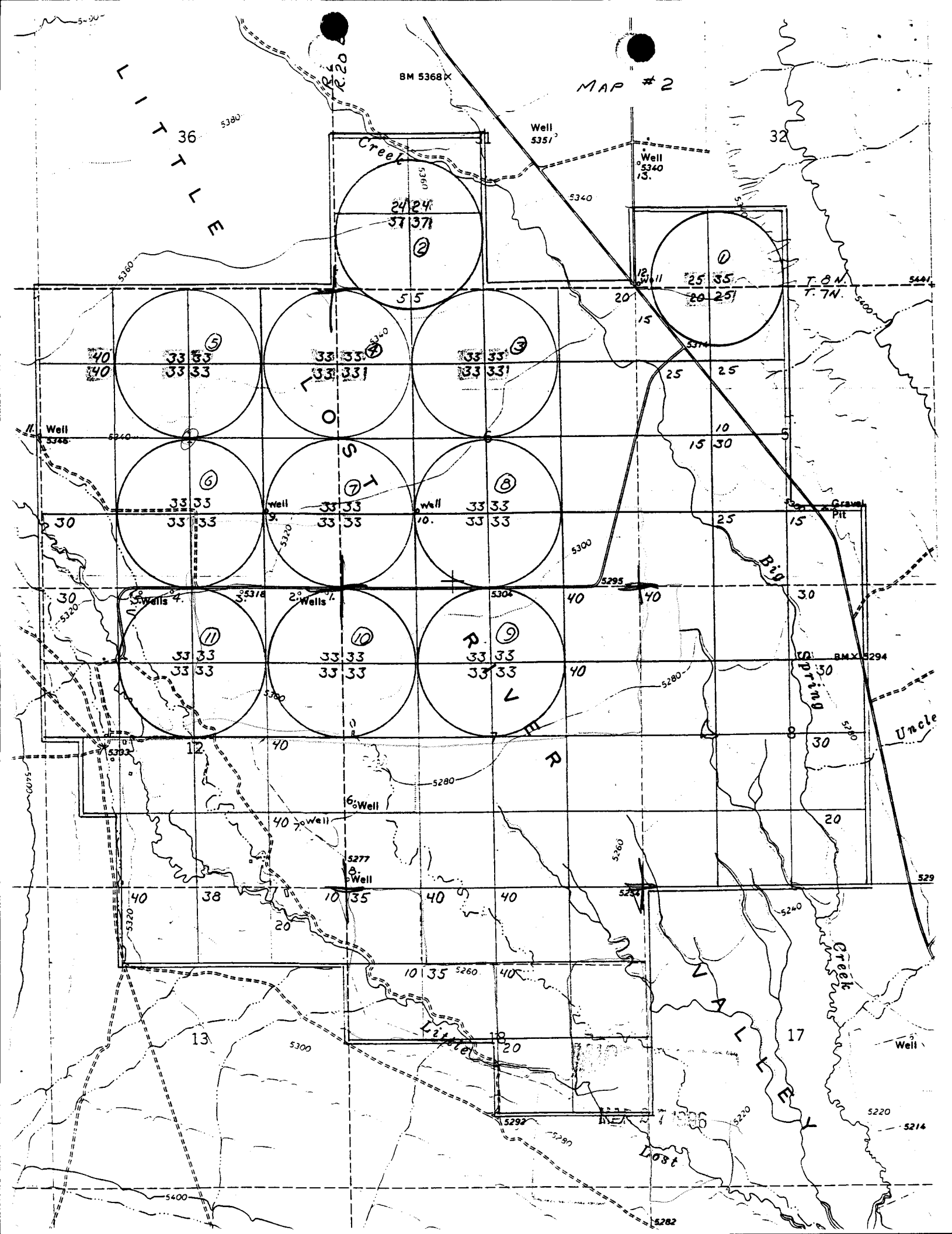
PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
07N	27E	1	NESE	40	SESE	40			80
	28E	6	NESW	40	NWSW	40	SWSW	40	
			SESW	40	NWSE	40	SWSE	40	240
					Total number of acres irrigated:				320

CONDITIONS/REMARKS:

1. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
2. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
3. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

MAR 27 1996


MAP #2
LITTLE
LOST
RIVER
VALLEY
Creek
Big Spring
Uncle
Lost
BM 5368
BM X 5294
Well 5351
Well 5340
Well 5346
Gravel Pit
T. 8 N.
T. 7 N.
36
31
32
13
17
18
20
12
9.
10.
2. Wells
3. Wells
4. Wells
5277
5292
5282
5214
5220
5400
5380
5360
5340
5320
5300
5280
5260
5240
5200
33 33
33 331
40
38
35
25
30
15
10
20

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows proposed change: Circles Nos. 1, 2, 3, 4 & 5 (highlighted in yellow) plus 80 acres in W1/2 NW S.1; T.7N; R.27E; acreages highlighted in blue; and two wells highlighted in pink.

MAR 2 7 1996

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

 Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:
No change

3. Describe effects on other water uses resulting from the proposed change:
We anticipate no significant effects.

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

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

Sagewillow Inc
Edmund W. Dunkle
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZegel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanzant Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00

Receipted by JV C028624 Date 9-21-93

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED
MAR 27 1996

Law Offices

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DEANNE CASPERSON**
*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

US BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

June 20, 2003

VIA FACSIMILE: (208) 327-7866

Idaho Department of Water Resources
1301 North Orchard Street
PO Box 83720
Boise, ID 83720-0098

Re: Application for Transfer Nos. 4221, 4222, 4223, 4224, 4225, 4226, and 4227 In the name of Sagewillow, Inc.

Dear Ladies and Gentlemen:

We are writing this letter at the request of our client, Sagewillow, Inc. We hereby withdraw the above-numbered applications for transfer. The decision of the Idaho Supreme Court appears to be final in the appeal of this matter and the final order of the director in these transfer proceedings has now been vacated. Sagewillow, Inc., is considering the filing of new applications for transfer.

Yours very truly,



Kent W. Foster

c: Norman M. Semanko
Thomas C. Praggastis
Dr. Charles Brockway
Michael C. Creamer
Harold Jones (via fax)
Philip J. Rassier

G:\WPDATA\KWF\8140 SAGE WILLOW\Correspondence\L. Glen Saxton IDWR ltr 062003 wpd:bel

T4222 SAGEWILLOW INC withdrawn

Form 222
1-87

Page 1 of 10

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SEP 2 [illegible] 1993
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4222

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of water on land owned by applicant, some of which has been brought under sprinkler irrigation, and to correct Transfer #3785 partially completed in October, 1992.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02057B	02/01/1950	5.50 cfs	Irrigation	04/01 to 11/01
33-02083B	08/23/1957	1.15 cfs	Irrigation	04/01 to 11/01
33-02090	12/21/1959	5.93 cfs	Irrigation	04/01 to 11/01
				to

2. Total amount of water being transferred 12.58 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water ground water tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	SW	NE	SE	1	7N	27E	Butte	Well No. 9
	SW	NE	SW	6	7N	28E	Butte	Well No. 10

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1									33			33	33	33	33	33	198
		12	33			33													66
7N	28E	6									33	33	33	33		33	33		198
		7		33	33		33	33	33	33									198

MAR 2 7 1998

Total acres 660

PART 1

6. General Information:

a. Description of diversion system 3 wells and electric pumps to 5 pivot sprinklers

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

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

NONE

d. Remarks:

Transfer No. 3785, partially completed in October, 1992, inadvertently failed to take into account the existence of Right No. 33-02090. Also, two new wells were drilled rather than just one.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 33-02057B, -02083B, & 0209(

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

Pursuant to Final Order.

Witness my hand this 12th day of March, 19 96.

Karl J. Dreher, Director

MAR 27 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02057 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 02/01/1950

5. Water is used for the following purpose:

   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

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

8. Lands irrigated or place of use:

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

MAR 2

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009

00069, 00070, 00071, 00072, 00073, 00074, 00076, 00078, 00079, 00080, 00081, 00082.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 5.50 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
					SAME AS A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SAME AS A.8														

Total acres _____

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

1. amount 18.50 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
					SAME AS A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SAME AS A.8														

Total acres _____

7. Point(s) of Diversion: ATTACHMENT #1 TO PAGE 3

Lot	¼	¼	¼	Sec.	Twp	Rge.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

Two.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		5	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

Total acres 1483

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 5.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SEE ATTACHMENT #1				TO 33-02057

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SEE ATTACHMENT							#2 TO 33-02057								

MAR 27 1996

Total acres _____

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

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.15 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
					SAME AS A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SAME AS A.8														

Total acres _____

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

1. amount 3.85 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
					SAME AS A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SAME AS A.8														

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02090 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 12/21/1959

5. Water is used for the following purpose:

   amount 5.39 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 5.93 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	NE	2	7N	27E	Butte	Well No. 11

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1													40				40
7N	28E	6									40	40	40	40		40	40	40	280
																27			

Total acres 320

9. Describe any other water rights used for the same purpose as described above None

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows proposed change: Circles Nos. 6, 7, 8 9 & 10 are highlighted in yellow; acreages are highlighted in blue; and 3 wells are highlighted in pink.

RECEIVED
JUL 27 1995

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

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:
No change

3. Describe effects on other water uses resulting from the proposed change:
There will be no further effects from this transfer.

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

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

Sagewillow Inc
Edmund W. Dunka
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September 19 93.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanDaut Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JV C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

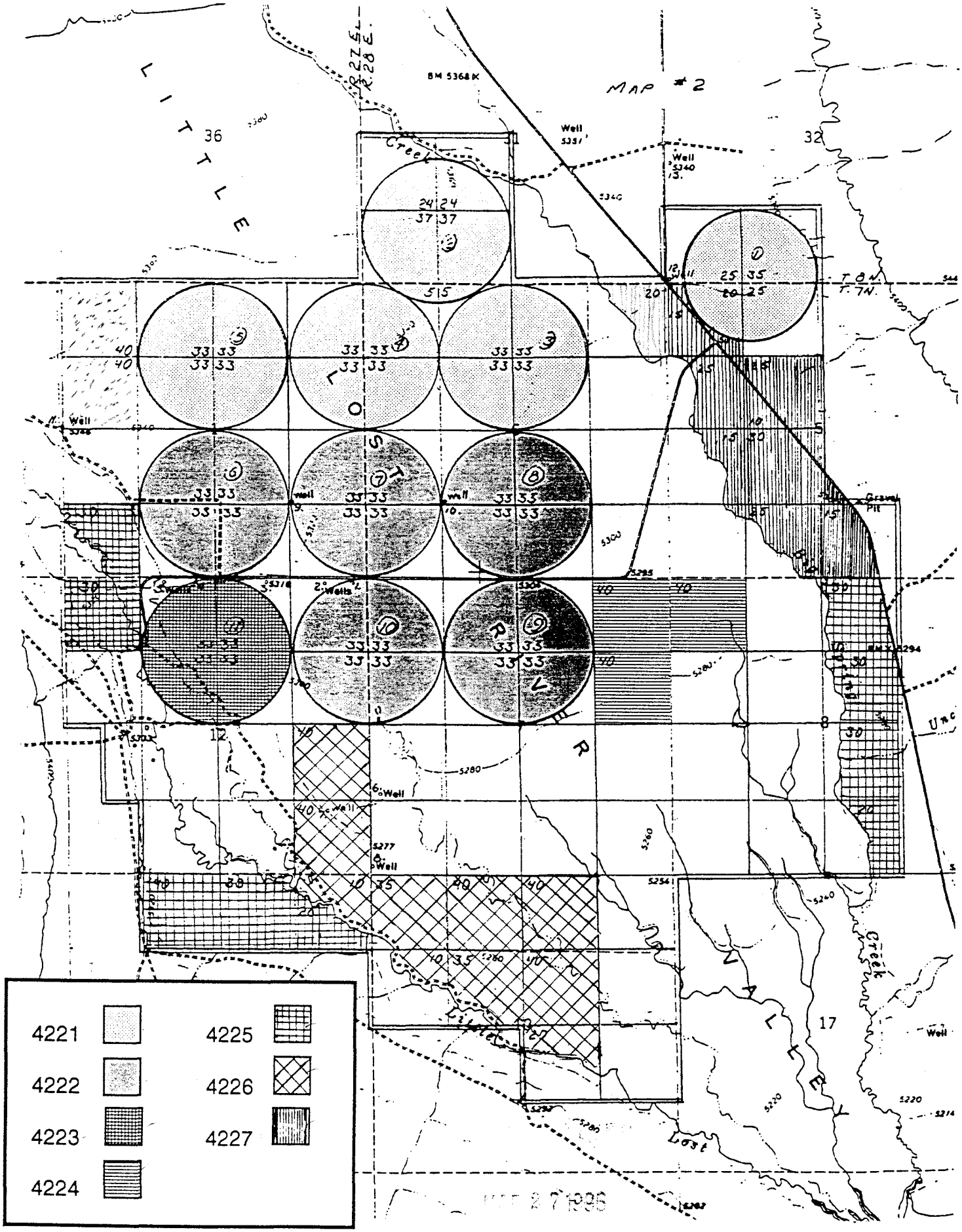
Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 27 1996



ATTACHMENT No. 1

T4224 SAGEWILLOW INC withdrawn

Form 222
1-87

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SEP 20 1993
Department of Water Resources

Page 1 of 38

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4224

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of the water rights.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
33-02057D	02/01/1950	1.94 cfs	Irrigation	04/01	to	11/01
33-02083D	08/23/1957	.41 cfs	Irrigation	04/01	to	11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST OF RIGHTS				to	
					to	

2. Total amount of water being transferred 9.38 cubic feet per second and 503 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	NE	12	7N	27E	Butte 2	Well No. 3
	SW	SW	NE	2	7N	27E	Butte 1	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte 3	Lake Headgate
	NE	NW	SW	5	7N	28E	Butte 4	Big Spring Creek Headgate

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7	40			40													80
		8						40											40

Total acres 120

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Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Well and electric pump will discharge water into existing ditch system which conveys water east to the place of use. During highwater periods, the headgates on Little Lost River and one on Big Spring Creek divert water into the same ditch system.

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

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

There will be no effect except to better organize the existing rights.

d. Remarks:

The groundwater rights are the primary rights. The surface rights have such late priorities water is only available sometimes during the spring runoff. When and to the extent water is available, it is used in place of, and to save expense of operating, the well. In that regard, the surface water supplies are supplemental to the groundwater supplies.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Pursuant to Final Order.

*Water right Nos.:
33-02057D, -02083D, -00069A, 00070A, -00071A,
-00072A, -00073A, -00074A, -00076A, -00078A,
-00079A, -00080A, 00081A, -00082A, -02007A,
-02008A & 02133A.

Witness my hand this 12th day of March 19 96

Karl J. Dreher, Director

MAR 26 1996

ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

Parts "A"

RIGHT NO.	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	.54 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	.48 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	.54 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	1.09 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.27 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	1.16 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	.54 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.27 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.14 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	.49 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	1.09 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	503 Ac-Ft	Irrigation & Storage	04/01-11/01

1597m/srs

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Lot	¼	¼	¼	Sec.	Two	ne.	County	ocal name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	~~NE~~	~~NW~~	~~NE~~	~~12~~	~~7N~~	~~27E~~	~~Butte~~	~~Well No. 3~~
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

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ATTACHMENT NO. 2 TO PAGE 3

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	S	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	S	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

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Total acres 1483

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02057 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 02/01/1950

5. Water is used for the following purpose:

   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SEE ATTACHMENT #1				

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SEE ATTACHMENT #2															

MAR 26 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009, 00069, 00070, 00071, 00072, 00073, 00074, 00076, 00078, 00079, 00080, 00081, 00082.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.94 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME AS A.7				

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME AS A.8															

Total acres _____

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

1. amount 22.06 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME AS A.7				

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME AS A.8															

Total acres _____

MAR 26 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1 TO 33-02057					

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT #2 TO 33-02057																

Total acres _____

9. Describe any other water rights used for the same purpose as described ab Same as for 33-02057.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

1. amount 4.59 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 06/01/1908

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

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Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 10/01/1906
5. Water is used for the following purpose:
   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

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Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .48 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

- 2 6 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 03/15/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320
																MAR 28 1996			

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.09 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 08/06/1913
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .27 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1913
5. Water is used for the following purpose:
   amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 6.8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.16 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank
   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 10/15/1913

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .54 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18						40	40										80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .27 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8											40						40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .14 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02007 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 02/01/1909
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .49 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
amount .02 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02008 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 06/12/1909

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40			40		40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.09 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount .02 cfs for Stockwater purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02133 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River

4. Date or priority 06/22/1949

5. Water is used for the following purpose: Soil Root Zone Storage

   amount 2960 acre-feet (cfs/ac-ft) for (Irrigation Storage) purposes from 11/01 to 04/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE	ATTACHMENT	NO.	1	TO	PAGE									

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007, 33-02008, 33-02057, 33-02083.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 503 acre-feet (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Storage purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

Total acres 1480

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows proposed point of diversion highlighted in pink and the new acreages highlighted in blue.

MAR 2 6 1996

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

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

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

No change

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

We anticipate no effects.

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

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

Sagewillow Inc
Edmund N. Dumke Pres
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZeyl
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanoort Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JVanoort C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 26 1996

T4225 SAGEWILLOW INC withdrawn

Form 222
1-87

Page 1 of 38

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4225

APPLICATION FOR TRANSFER OF WATER RIGHT

RECEIVED
SEP 20 1993
Department of Water Resources

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To make more effective use of existing water rights.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use	
33-02057E	02/01/1950	4.34 cfs	Irrigation	04/01	to 11/01
33-02083E	08/23/1957	.90 cfs	Irrigation	04/01	to 11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST OF RIGHTS				to
					to

2. Total amount of water being transferred 20.92 cubic feet per second and 1125 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #2 TO PAGE 1					

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											30						30
		12						30											30
		13	20	38			40												98
7N	28E	8		30	30											30	20		110

Total acres 268

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Wells with electric pumps pump directly into ditch which discharges into Little Lost River for exchange. Water is diverted from the river and from Big Spring Creek into ditches through concrete headgates. During highwater periods when there is water available from the river and Big Spring Creek, to the extent it is available, is used in place of pumping the wells and is, in that sense, supplemental.

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

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

We anticipate no significant effects because the water has been used essentially in the described manner for many years.

d. Remarks: The ditch from the wells discharges into the Little Lost River in the NWNW S.12, T.7N, R.27E and water is rediverted from 2 ditches (heading on either side of a diversion structure in the river in the SWNE S.2, T.7N, R.27E), and from a headgate on Big Spring Creek in the NWSW S.5, T.7N, R.28E on an exchange basis. Or, if water is available under the surface water rights, pumping from the wells is reduced or stopped to the extent any such surface water is available.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Water Right Nos.:

33-02057E, -02083E, -00069B, -00070B, -00071B, -00072B, -00073B, -00074B, -00076B, -00078B, -00079B, -00080B, -00081B, -00082B, -02007B, -02008B, & -02133B.

Pursuant to Final Order.

Witness my hand this 12th day of March, 19 96.

Karl J. Dreher, Director

MAR 26 1996

ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

Parts "B"

RIGHT NO.	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	1.22 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	1.06 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	1.22 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	2.43 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.61 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	2.58 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	1.22 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.61 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.30 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	1.10 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	2.43 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	1125 Ac-Ft	Irrigation & Storage	04/01-11/01

1597m/srs

SEP 2 6 1996

4. Point(s) of Diversion: ATTACHMENT #2 TO PAGE 1

Lot	¼	¼	¼	Sec.	Twp	Rge.	County	Local name for diversion
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4 \ 2 P/D's NE/NW 5/2
	NW	NE	NW	12	7N	27E	Butte	Well No. 5 /
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate Rediversion
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate injection
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate Rediversion
	*SEE REMARKS FOR LOCATION OF POINTS OF INJECTION AND REDIVERSION							

MAY 20 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02057 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 02/01/1950

5. Water is used for the following purpose:

   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1 TO PAGE 3					

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT				#2 TO PAGE 3												

MAR 2 6 1998

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009, 00069, 00070, 00071, 00072, 00073, 00074, 00076, 00078, 00079, 00080, 00081, 00082.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 4.34 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

1. amount 19.66 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

MAR 2 6 1996

Total acres _____

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

MAR 2 6 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 5.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SEE	ATTACHMENT #1 TO 33-02057			

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SEE ATTACHMENT #2 TO 33-02057															

MAR 2 6 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above Same as for 33-02057.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

1. amount 4.1 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

ATTACHMENT NO. 2 TO PAGE 3

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

Total acres 1483

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 06/01/1908

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 10/01/1906

5. Water is used for the following purpose:

   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

MAR 26 1996

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.06 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

MAR 2 6 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 03/15/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 26 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320

MAR 26 1998

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.43 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

RECEIVED
MAR 26 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 08/06/1913
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

RECEIVED MAR 26 1996

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .61 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

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

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 04/01/1913

5. Water is used for the following purpose:

   amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

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

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

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 2.58 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 10/15/1913
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.22 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 04/01/1912
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18							40	40									80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .61 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

MAR 26 1936

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

MAR 26 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Spring Creek tributary to Little Lost River
4. Date or priority 05/01/1908
5. Water is used for the following purpose:
   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8											40						40

MAR 2 0 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .30 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02007 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 02/01/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

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

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

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

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 1.10 cfs (cfs/ac-ft) for Irrigation & purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Stockwater purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

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

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02008 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 06/12/1909

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40			40		40	40		40		40	40		320

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 2.43 cfs for Irrigation & purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for Stockwater purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 33-02133 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River
4. Date or priority 06/22/1949
5. Water is used for the following purposes:
   amount 2960 acre-feet (cfs/ac-ft) for Soil Root Zone Storage (Irrigation Storage) purposes from 11/01 to 04/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE	ATTACHMENT	NO.	1	TO	PAGE									

MAR 26 1986

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007, 33-02008, 33-02057, 33-02083.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 503 acre-feet (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for Storage purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 26 1996

Total acres _____

8. Lands irrigated or place of use: ATTACHMENT NO. 1 TO PAGE 35

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	E ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

MAR 26 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows points of diversion (Wells Nos. 3, 4 & 5) highlighted in pink and the proposed acreages to be irrigated highlighted in blue.

Map #3 shows point of injection into river and points of rediversion from river and Big Spring Creek highlighted in orange.

RECEIVED
MAR 2 6 1996

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

No change.

3. Describe effects on other water uses resulting from the proposed change:

We anticipate no effects.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Sagewillow, Inc
Edmund W. Dumke
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVanpant Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JV C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 26 1996

T4226 SAGEWILLOW INC withdrawn

Form 222
1-87

Page 1 of 38

Transfer No. 4226

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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SEP 2 0 1993
Department of Water Resources

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To make more effective use of the existing water rights.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02057F	02/01/1950	5.03 cfs	Irrigation	04/01 to 11/01
33-02083F	08/23/1957	1.03 cfs	Irrigation	04/01 to 11/01
	SEE ATTACHMENT #1 TO PAGE 1 FOR REST OF RIGHTS			to
				to

2. Total amount of water being transferred 24.65 cubic feet per second and 1332 acre-feet per annum.

3. Source of water groundwater, Little Lost River & Big Spring Creek tributary to Big Spring Creek is tributary to Little Lost River which sinks

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #2				TO PAGE 1	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12				W									40	W	W	W 40	80
		13	10																10
		18		W 40	W 40	W	40	35	10	35						20			220
7N	28E	7										W	W	W	W				

MAR 2 6 1996

Total acres 310

ATTACHMENT #1 TO PAGE 1

DESCRIPTIONS OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE (CONTINUED)

Part C

RIGHT NO.	PRIORITY	AMOUNT (CFS/AC-FT)	NATURE OF USE	PERIOD OF USE
33-00069	06/01/1908	1.44 cfs	Irrigation	04/01-11/01
33-00070	10/01/1906	1.26 cfs	Irrigation	04/01-11/01
33-00071	03/15/1909	1.44 cfs	Irrigation	04/01-11/01
33-00072	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00073	04/01/1912	2.88 cfs	Irrigation	04/01-11/01
33-00074	08/06/1913	.72 cfs	Irrigation	04/01-11/01
33-00076	04/01/1913	3.06 cfs	Irrigation	04/01-11/01
33-00078	10/15/1913	1.44 cfs	Irrigation	04/01-11/01
33-00079	04/01/1912	.72 cfs	Irrigation	04/01-11/01
33-00080	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00081	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-00082	05/01/1908	.36 cfs	Irrigation	04/01-11/01
33-02007	02/15/1909	1.31 cfs	Irrigation & Stockwater	04/01-11/01
33-02008	06/12/1909	2.88 cfs	Irrigation & Stockwater	04/01-11/01
33-02133	06/02/1949	1332 Ac-Ft	Irrigation & Storage	04/01-11/01

1597m/srs

MAR 8 6 1996

4. Point(s) of Diversion: ATTACHMENT #2 TO PAGE 1

Lot	¼	¼	¼	Sec.	Two.	e.	County		cal name for diversion
	NE	NW	NE	12	7N	27E	Butte	2	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	3	Well No. 4 \ 2 PD same Y4 Y4
	NW	NE	NW	12	7N	27E	Butte		Well No. 5 /
	NW	SE	SE	12	7N	27E	Butte	5	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	7	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	8	Well No. 8
	SW	SW	NE	2	7N	27#	Butte	1	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	4	Lake Headgate
	NE	NW	SW	5	7N	28E	Butte	6	Big Spring Creek Headgate

MAR 2 0 1995

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system 6 wells and pumps are connected by a ditch system which also feeds 16 ponds. When there is highwater available during spring runoff, and to the extent it is available, water is diverted under such rights directly into the same ditch system through three existing headgates.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

There will be no significant effects; this is essentially thepractice that has been in effect for many years.

d. Remarks:

The groundwater rights are the primary rights. When, and to the extent, surface water is available under the late priority surface water rights, it is used to reduce or replace the water pumped from the wells. In that sense, the surface water rights are supplemental.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. *see below

And said application is hereby conditionally approved, subject to the following limitations and conditions:

Pursuant to Final Order.

Water Right Nos.:

33-02057F, -02083F, -00069C, -00070C, -00071C, -00072C, -00073C, -00074C, -00076C, -00078C, -00079C, -00080C, -00081C, -00082C, -02007C, -02008C, & -02133C.

Witness my hand this 12th day of March, 19 96

Karl J. Dreher, Director

MAR 26 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02057 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 02/01/1950

5. Water is used for the following purpose:

   amount 24.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 24.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SEE ATTACHMENT #1				TO PAGE 3	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SEE ATTACHMENT				#2 TO PAGE 3												

MAR 0 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-02083, 02133, 02007, 02009

00060, 00070, 00071, 00072, 00073, 00074, 00076, 00078, 00079, 00080, 00081, 00082

Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Two[illegible]e.	County	Local name for diversion
	NE	NE	NE	12	7N	27E	Butte	Well No. 1
	NW	NE	NE	12	7N	27E	Butte	Well No. 2
	NE	NW	NE	12	7N	27E	Butte	Well No. 3
	NE	NE	NW	12	7N	27E	Butte	Well No. 4
	NW	NE	NW	12	7N	27E	Butte	Well No. 5
	NW	SE	SE	12	7N	27E	Butte	Well No. 6
	SW	NW	SW	7	7N	28E	Butte	Well No. 7
	SW	SW	SW	7	7N	28E	Butte	Well No. 8

MAR 2 0 1996

8. Lands irrigated or place of use:

ATTACHMENT NO. 2 TO PAGE 3

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1											31	40					71
		12	40	40	40	40	40	30	10		15			40				40	335
		13	40	40			40												120
7N	28E	7	40	40	40	40	40	38	38	40									316
		8		4	15											30	30		90
		17											30						30
		18			40	40		39	25	40					40				224
8N	27E	34			37					40	40	35	30	35		40	40		297

MAR 6 1996

Total acres 1483

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 5.03 cfs for Irrigation, storage for aesthetics, fish & wildlife, recreation and storage purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 18.97 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

MAR 26 1990

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02083 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water groundwater tributary to _____

4. Date or priority 08/23/1957

5. Water is used for the following purpose:

   amount 5.0 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 5.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8 FOR 33-02057																
											MAR 2 6 1996								

Total acres _____

9. Describe any other water rights used for the same purpose as described above Same as for 33-02057.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.03 cfs (cfs/ac-ft) for irrigation, storage for aesthetics, fish & wildlife habitat, recreation & stockwater. purposes from 04/01 to 11.01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 3.97 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00069 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 06/01/1908

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7					40			40	40					40			160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.44 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

RECEIVED 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00070 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 10/01/1906

5. Water is used for the following purpose:

   amount 2.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 2.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7											40	40			40	40	160

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02133

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.26 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 33-00071 Decreed to Merchants Trust & Savings Bank

in case of The Blaine County Investment Co. vs. Robert G. Mays, et al

dated March 4, 1927 in Sixth District Court county of Butte

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 03/15/1909

5. Water is used for the following purpose:

amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			40					40					40	40			160

MAR 2 6 1990

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02007, 33-02057, 33-02083

Page _____

). To your knowledge, has any portion of [redacted] water right undergone a period of five o[redacted]re consecutive years of non-use?

No If yes, describe _____

. **DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

(If the entire right is to be changed by the applicant, omit part B and C.)

amount 1.44 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00072 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7										40							40

MAR 2 6 1998

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133

To your knowledge, has any portion of [redacted] water right undergone a period of five c[redacted]ore consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount .36 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME AS A.7					

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1990

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00073 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 04/01/1912

5. Water is used for the following purpose:

   amount 6.4 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8					40		40	40	40	40		40		40	40		320

MAY 2 8 1996

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02057, 33-02083

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 2.88 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount (cfs/ac-ft) for purposes from to
   amount (cfs/ac-ft) for purposes from to

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A.8														

Total acres

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount (cfs/ac-ft) for purposes from to
   amount (cfs/ac-ft) for purposes from to
   amount (cfs/ac-ft) for purposes from to

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1996

Total acres

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 33-00074 Decreed to Merchants Trust & Savings Bank
      in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.
      dated March 4, 1927 in Sixth District Court county of Butte
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
3. Source of water Little Lost River tributary to Sinks
4. Date or priority 08/06/1913
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8		40	40														80

MAR 6 1996

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

PART 2

Transfer No. _____

0. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount: .72 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount: _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount: _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A 7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME	AS	A 8														

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 33-00076 Decreed to Merchants Trust & Savings Bank

in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

dated March 4, 1927 in Sixth District Court county of Butte

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 04/01/1913

5. Water is used for the following purpose:

amount 6.8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	28E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	28E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12	40	40	40	40	40			40	40			40	40	40	40	40	480
		13	40	40			40												120
7N	28E	7						40	40										80

MICROFILMED
MAR 26 1996

Total acres 680

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

Transfer No. _____

PART 2

To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount 3.06 (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

RECEIVED
MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00078 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 10/15/1913

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	17											40						40
		20		40			40	40											120

RECEIVED
MAR 2 0 1995

Total acres 160

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

0. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

3. **DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.44 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 26 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00079 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 04/01/1912

5. Water is used for the following purpose:

   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18						40	40										80

Total acres 80

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133

MAR 20 1996

PART 2

Transfer No. _____

To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount .72 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00080 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7			40														40

MAR 26 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02057, 33-02083, 33-02133.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount .36 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00081 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al.

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount 8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	7													40				40

MAR 26 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02133.

PART 2

Transfer No. _____

3. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount .36 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 33-00082 Decreed to Merchants Trust & Savings Bank

   in case of The Blaine County Investment Co. vs. Robert G. Mays, et al

   dated March 4, 1927 in Sixth District Court county of Butte

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 05/01/1908

5. Water is used for the following purpose:

   amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8										40							40

MAR 26 1996

Total acres 40

9. Describe any other water rights used for the same purpose as described above 33-02008, 33-02133.

PART 2

Transfer No. _____

). To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

. **DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

(If the entire right is to be changed by the applicant, omit part B and C.)

amount .36 cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A 8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 2 6 1996

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02007 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River tributary to Sinks

4. Date or priority 02/01/1909

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NE	2	7N	27E	Butte	Knollin Headgate
	NE	SW	NW	12	7N	27E	Butte	Lake Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	18			30					40					40	35			145

MAR 26 1996

Total acres 145

9. Describe any other water rights used for the same purpose as described above 33-00071, 33-02057, 33-02083.

PART 2

Transfer No. _____

9. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount: 1.31 cfs (cfs/ac-ft) for: Irrigation & purposes from: 04/01 to 11/01

amount: .02 cfs (cfs/ac-ft) for: Stockwater purposes from: _____ to _____

amount: _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02008 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Spring Creek tributary to Little Lost River

4. Date or priority 06/12/1909

5. Water is used for the following purpose:

   amount 6.4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount .06 cfs (cfs/ac-ft) for Stockwater purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	5	7N	28E	Butte	Big Spring Creek Headgate

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	8	40			40			40		40	40		40		40	40		320

MAR 2 6 1996

Total acres 320

9. Describe any other water rights used for the same purpose as described above 33-00073, 33-02057, 33-02083,

10. To your knowledge, has any portion of [redacted]s water right undergone a period of five [redacted]ore consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 2.88 cfs for Irrigation & purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for Stockwater purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
			SAME	AS	A.7			

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			SAME AS A.8																

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02133 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water Little Lost River and Upper Spring Creek tributary to Sinks and Little Lost River

4. Date or priority 06/22/1949

5. Water is used for the following purpose: Soil Root Zone Storage

   amount 2960 acre-feet (cfs/ac-ft) for (Irrigation Storage) purposes from 11/01 to 04/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right _____ cubic feet per second and/or 2960 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	12	7N	27E	Butte	
		NE	SW	5	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
					SEE ATTACHMENT NO. 1 TO PAGE														

MAR 26 1996

Total acres _____

9. Describe any other water rights used for the same purpose as described above 33-00069, 33-00070, 33-00071, 33-00072, 33-00073, 33-00074, 33-00076, 33-00078, 33-00080, 33-00081, 33-00082, 33-02007

D. To your knowledge, has any portion of [redacted]'s water right undergone a period of five o[redacted]re consecutive years of non-use?

No If yes, describe ___

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 503 acre-feet (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount ___ (cfs/ac-ft) for Storage purposes from ___ to ___
   amount ___ (cfs/ac-ft) for ___ purposes from ___ to ___

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
				SAME	AS	A.7		

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
				SAME	AS	A.8													

Total acres ___

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount ___ (cfs/ac-ft) for ___ purposes from ___ to ___
   amount ___ (cfs/ac-ft) for ___ purposes from ___ to ___
   amount ___ (cfs/ac-ft) for ___ purposes from ___ to ___

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MAR 26 1996

Total acres ___

8. Lands irrigated or place of use: ATTACHMENT NO. 1 TO PAGE 33

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	12			40	40				40	30				40	40	30	40	300
		13	20																20
7N	28E	5												40					40
		7			40	40			40	40	40	40	40	40	40	40	40	40	480
		8			40		40		40	40	40	40	40	40		40	40		400
		17											40						40
		18			40	40				40					40	40			200

MAR 2 0 1996

1480

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows points of diversion highlighted in pink and acreages to be irrigated highlighted in blue.

Map #3 shows ditch and pond system.

MAR 2 6 1996

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Storage for aesthetics, fish & wildlife habitat, recreation & stockwater	24.65 cfs		04/01 to 11/01
				to

2. Quantity and quality of return flows and location of discharge:

No change.

3. Describe effects on other water uses resulting from the proposed change:

We anticipate no effects on other uses. This proposed change has essentially been in effect for many years.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Sagewillow Inc
Edmund W. Dumke Pres
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 1993.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVansant Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JV C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 2 6 1996

T4227 SAGEWILLOW INC withdrawn

Form 222
1-87

Page 1 of 10

Transfer No. 4227

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED
SEP 20 1993
Department of Water Resources

Name of applicant Sagewillow, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls ID 83405

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To provide for more efficient use of applicant's water rights.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-02086B	01/12/1959	2.73 cfs	Irrigation	04/01 to 11/01
33-02091B	01/22/1960	0.01 cfs	Irrigation	04/01 to 11/01
NE 33-07018B	09/12/1972	3.26 cfs	Irrigation	04/01 to 11/01
				to

2. Total amount of water being transferred 6.09 6.0 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water ground water tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	32	8N	28E	Butte	Well No. 13

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	5						15	25	35	30	15		25			15		160
		6	20																20
															27.996				

Total acres 180

Transfer No. _____

PART 1

6. General Information

a. Description of diversion system Well with electric pump discharges into open ditch to place of use for flood irrigation.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Portions of the land now irrigated with this right will be irrigated with other water rights under a sprinkler system; portions of the land will no longer be irrigated, and portions will be irrigated with this right as in the past.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 33-02086B, -02091B, -07018

And said application is hereby conditionally approved, subject to the following limitations and conditions:

Pursuant to Final Order.

Witness my hand this 12th day of March, 19 96.

Karl J. Dreher, Director

MAR 27 1996

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02086 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 01/12/1959

5. Water is used for the following purpose:

   amount 4.1 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 4.1 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	32	8N	28E	Butte	Well No. 13

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	5					35	38	33	36	31								173
8N	28E	32									31	39	17						87

Total acres 260

9. Describe any other water rights used for the same purpose as described above 33-07018 is appurtenant to 163 acres of the lands in Section 5, Township 7 North, Range 28 East.

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 2.73 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	32	8N	28E	Butte	Well No. 13

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	5					35	38	33	36	31								173

Total acres 173

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 1.37 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	32	8N	28E	Butte	Well No. 13

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8N	28E	32										31	39	17					87

Total acres 87

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-02091 (See Transfer #3785) issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 01/22/1960

5. Water is used for the following purpose:

   amount 4.36 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 4.36 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SW	6	7N	28E	Butte	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1													40			40	80
7N	28E	6									40	40	40	40		40	40		240

Total acres 320

9. Describe any other water rights used for the same purpose as described above _____

PART 2

Transfer No. _____

0. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

3. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount .10 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SW	6	7N	28E	Butte	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1													40			40	80
7N	28E	6									~~40~~	40	40	40		~~40~~	~~40~~		~~240~~

7

Total acres ~~320~~ 7

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 4.26 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SW	6	7N	28E	Butte	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	27E	1													~~40~~			40	80
7N	28E	6									40	40	40	40		40	~~40~~		240

7

Total acres ~~320~~ 313

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 33-07018 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____

3. Source of water ground water tributary to _____

4. Date or priority 09/12/1972

5. Water is used for the following purpose:

   amount 3.26 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.26 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	SW	32	8N	28E	Butte	Well No. 12

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	28E	5					30	38	21	35	39								163

Total acres 163

9. Describe any other water rights used for the same purpose as described above A portion of 33-02086 is appurtenant to some 173 acres which contains most of this 163 acres

PART 2

To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No. If yes, describe _____

DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

SEE ATTACHED MAPS

Map #1 shows former points of diversion highlighted in blue and places of use highlighted in yellow.

Map #2 shows proposed point of diversion highlighted in pink and acreages to be irrigated highlighted in blue.

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	None			_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:
No change

3. Describe effects on other water uses resulting from the proposed change:
We anticipate no significant effects.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Sagewillow Inc
Edmund W. Dumke Pres
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of September, 19 93.

Della VanZeipel
(Notary Public)

My commission expires 8/8/96

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by JVansant Date 9-21-93 Protest filed by _____

Prelim. check by _____ Fee 50.00 _____

Receipted by JV C028624 Date 9-21-93 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 27 1996