

RECEIVED

FEB 26 2010

DEPARTMENT OF
WATER RESOURCES

Michael C. Creamer [ISB No. 4030]
Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com
Attorneys for F. Stanley Lloyd

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

Subcase No.: 43-192

AFFIDAVIT OF F. STANLEY LLOYD IN
SUPPORT OF MOTION TO SET ASIDE
PARTIAL DECREE

STATE OF IDAHO)
)ss.
County of Cassia)

F. STANLEY LLOYD, being first duly sworn upon oath and upon his personal
knowledge, deposes and says:

1. I am the owner of water right no. 43-192.

2. Water right no. 43-192 was decreed in the *Albion-Idaho Land Company v. Jobe Adams, et al.*, Decree No. 992 (D. Idaho 1928) ("Jobe Adams Decree") to my uncle, S. H. Lloyd. A true and correct copy of the relevant portion of the Jobe Adams Decree is attached to this affidavit as Exhibit A.

3. In about 1935, my father acquired ownership of water right no. 43-192 and the land that it irrigates following the death of his brother S. H. Lloyd.

AFFIDAVIT OF F. STANLEY LLOYD
IN SUPPORT OF MOTION TO SET ASIDE PARTIAL DECREE

4. In about 1964, my father conveyed to me ownership of water right no. 43-192 and the land that it irrigates.

5. On June 15, 1989, I filed a claim for water right no. 43-192 in the Snake River Basin Adjudication. A true and correct copy of the claim is attached to this affidavit as Exhibit B. I was not represented by legal counsel when my SRBA claim was pending.

6. Water right no. 43-192 is diverted from Green Canyon Creek on federal land and conveyed through the Green Canyon Ditch to its place of use on my property in T14S, R24E, Sec. 12 and T14S, R25E, Sec. 7. The Green Canyon Ditch continues past my property and delivers other water rights to lands owned by other people.

7. Water right no. 43-192 is the most senior water right diverted from Green Canyon Creek and its place of use on my property is the farthest upstream of any Green Canyon Creek water rights.

8. The Jobe Adams Decree decreed right no. 43-192 for 0.80 cfs to irrigate Lots 3 and 4, Sec. 7, T14S, R25E, and E1/2SE1/4, Sec. 12, T14S, R24E. The Jobe Adams Decree did not state the number of irrigated acres, although the place of use described in the decree encompasses approximately 80 acres. See Exhibit A.

9. In 1989, I filed an application for transfer of water right no. 43-192 with the Idaho Department of Water Resources ("IDWR"). This transfer (no. 3580) sought to add a point of diversion to allow diversions from ground water in years when Green Canyon Creek water was unavailable late in the irrigation season. The transfer also was to correct the recorded place of use description to show the actual current place of use and amount of irrigated acreage. In 1992, IDWR denied my requested change to the point of diversion (finding that it actually was a change in source and would constitute an expansion of the original right), and approved the

change to the place of use. The approved transfer recognized that water right no. 43-192 authorizes diversions of 0.80 cfs from Green Canyon Creek to irrigate 45 acres. A copy of the Order Approving Transfer in Part is attached to this affidavit as Exhibit C.

10. In 1992, I changed the location of my headgate from which I divert water right no. 43-192 from the Green Canyon Ditch. I made this change to install a proper headgate and measuring device as an example of good water stewardship to my neighboring water users. I also changed the location of the Green Canyon Ditch headgate so that it was on my property rather than on federal land where the original ditch diversion was located. As a consequence of this change, I used right no. 43-192 on lands different than those reflected in approved transfer no. 3580. I did not file a transfer application with IDWR for this change and this change was not recorded with IDWR. In making this change, I did not, and I did not intend to, reduce the quantity of water diverted below the 0.80 cfs decreed in the Jobe Adams Decree or recognized in approved transfer no. 3580. I also did not, and I did not intend to, irrigate fewer acres than the number historically irrigated under the Jobe Adams Decree or recognized in approved transfer no. 3580.

11. In 1994, IDWR agent Kelly Christensen conducted a field exam for my SRBA claim for water right no. 43-192. I showed him the new place of use that differed from approved transfer no. 3580. I spoke with Kelly again in 1999 about my SRBA Claim. He never told me that my changes to the place of use would result in any diminution, abandonment, or forfeiture of water right no. 43-192. Although I did not understand this at the time, I now understand that, he recommended that water right no. 43-192 be decreed for 0.62 cfs to irrigate 31.1 acres rather than 0.80 cfs to irrigate 45 acres as recognized in approved transfer no. 3580. I own several other properties and water rights besides water right no. 43-192 and the lands it irrigates. I

received many water right documents from IDWR and the SRBA Court for my different properties and I tried to check the water right numbers on the documents when I received them to make sure all the water rights were accounted for. However, I must admit I probably did not fully understand the contents of all the documents.

12. In 2002, the SRBA Court issued a partial decree for water right no. 43-192 for 0.62 cfs to irrigate 31.1 acres. I received a copy of the partial decree in the mail, but did not realize that it did not reflect the 0.80 cfs and 45 acres recognized in approved transfer no. 3580.

13. In 2007, I was working with Roger Musser, the water master for water district no. 43-C, to improve the delivery of water rights through Green Canyon Ditch. He brought it to my attention that the partial decree was for 0.62 cfs to irrigate 31.1 acres rather than 0.80 cfs to irrigate 45 acres. This was a complete surprise to me and I did not believe it. To this day, I do not understand how IDWR and the SRBA Court determined the elements of water right no. 43-192 differently than the 0.80 cfs authorized in the Jobe Adams Decree and the 45 acres recognized in approved transfer no. 3580. I have diverted 0.80 cfs and irrigated at least 45 acres at my property under water right 43-192 before and since transfer no. 3580 was approved in 1992 and I continued to divert and irrigate those amounts under water right 43-192 since the partial decree was issued. Neither the water master nor any other water user has sought to stop this practice.

14. After Roger Musser informed me in 2007 about the partial decree for water right no. 43-192, I came upon a memo prepared by Kelly Christensen that explains his recommendation for water right no. 43-192. I do not recall ever seeing this document before this time. A true and correct copy of this memo is attached to this affidavit as Exhibit D. In this memo, Mr. Christensen says that I forfeited a portion of right no. 43-192 because I changed my

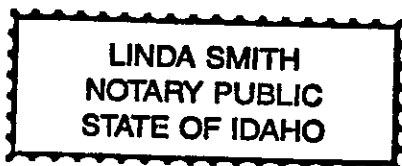
diversion on the Green Canyon Ditch. I do not understand how he reached this conclusion since I did not reduce the amount of water diverted under right no. 43-192, or the number of acres I irrigated with it. Mr. Christensen did not tell me that any of my water use was unauthorized, that I should seek an additional transfer to change my place of use, or that I was in danger of forfeiting any of my water right. I never intended to abandon or stop using any portion of the 0.80 cfs for 45 acres of irrigation that I was entitled to by the approved transfer no. 3580. In addition, I understand that I could not have forfeited any water right during the period from 1992 to 1999 as he states in his memo because the forfeiture clock does not run while claims are pending in the SRBA. I would not have changed anything if I thought it would result in losing any part of the most senior right on Green Canyon Creek.

15. In November 2009, at the urging of my son and stepson, I contacted the law firm of Givens Pursley to review the water rights for my property and advise me in regard to the partial decree for water right 43-192. In late December 2009, Givens Pursley advised me that I would have to have the partial decree set aside in order to correct water right no. 43-192 to have it reflect the quantity decreed in the Jobe Adams Decree. As soon as I learned this, I authorized Givens Pursley to file a motion to set aside the partial decree.

DATED this 22nd day of February, 2010.

F. Stanley Lloyd
F. Stanley Lloyd

SUBSCRIBED AND SWORN to before me this 22nd day of February, 2010.



Linda Smith
Notary Public for the State Of Idaho
Residing at Burley
My Commission Expires: 02/02/2014

CERTIFICATE OF SERVICE

I hereby certify that on the 25TH day of February, 2010, a true and correct copy of the foregoing was served upon the following individual(s) by the means indicated:

ORIGINAL FILED

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

☐ U. S. Mail
☐ Hand Delivered
☒ Overnight Mail
☐ Facsimile
☐ E-mail

SERVICE

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail



MICHAEL P. LAWRENCE

ALBION-IDAHO LAND COMPANY,
a corporation,

Plaintiff,

-vs-

JOBE ADAMS, et al.,

Defendants.

DECRET

WHEREAS, on the 17th day of May, 1922,

Idaho Land Company duly filed its complaint in said

entitled court, which said cause was entitled the Alb

Company, a corporation, complainant versus Jobe Adams

others as defendants, and

WHEREAS, by order of the Court duly made and entered

of said cause was designated as Albion-Idaho Land Company

Jobe Adams, et al., and was docketed and all proceedings

under said title, and

WHEREAS, on the said 22nd day of May, 1922, the said

complainant caused to be filed with the Clerk of the United

District Court for said District its lis pendens, and same

same to be thereafter, on the 30th day of June, 1922, to

filed of record with the County Recorder of Cassia County,

and said lis pendens was on said day duly recorded in

lis pendens on pages 211-2-3-4 of the records of said Court

WHEREAS, thereafter due and regular service of summons

made upon all parties mentioned in said complaint, either

or by due publication as shown by the records and files

action, and

WHEREAS, the following named defendants, Jobe Adams,

Adams, wife of Jobe Adams, Hyrum Andrews, Virginia Andrews,

Bateman, Ella Bateman, Harry Bransden, Reggie Bransden,

Beumard, Henry E. Bigler, Mary Ann Bigler, Clara J. Bigler,

Cammy W. Bond, James Barker, William Barker, and

containing 20

POOR QUALITY

MICROFILMED

MAY 18 1992

POOR QUALITY

Thomas Lloyd
Mamie Lloyd

1910-Apr. 143 0191 3.2 s.f. c. 1978

PROVIDED, that the amount of water
Sh. Hilloid to receive from the

1880-Apr. 3043 0192 8 s.f. c. 1978

A. Lounsbury

1894-Apr. 143 0193 3.9 s.f. c. 1978

1886-Apr. 3043 0194 3 s.f. c. 1978

1880-Apr. 3043 0195 1.2 s.f. c. 1978

Ralph A. Lounsbury

1886-Apr. 143 0196 3 s.f. c. 1978

1886-Apr. 143 0197 1.275 s.f. c. 1978

1894-Apr. 6143 0198 3.8 s.f. c. 1978

Hannah McFarland

1882-Apr. 3043 0199 .4 s.f. c. 1978

1884-Apr. 3043 0200 .02 s.f. c. 1978

1894-Apr. 143 0200 2.4 s.f. c. 1978

James S. McGill

1872-Apr. 143 0201 3 s.f. c. 1978

1879-Apr. 143 0202 3 s.f. c. 1978

1884-Mar. 143 0203 2.8 s.f. c. 1978

1912-Oct. 143 0204 3.6 s.f. c. 1978

To be diverted from Raft River
for the irrigation of
SW1/4, NW1/4, SE1/4, Sec. 29,
Twp. 14 S. R. 27 E.B.M.

To be diverted from Green Canyon
Creek for the irrigation of
Lots 3 and 4, Sec. 7, Twp. 14 S.
R. 25 E.B.M.; E1/4, Sec. 12,
Twp. 14 S. R. 24 E.B.M.

To be diverted from Cannonia Creek
for the irrigation of
Lots 1 and 2 and the E1/4, Sec.
30, SE1/4, and Lots 3 and 4, Sec.
19, Twp. 12 S. R. 27 E.B.M.,
E1/4, Sec. 25, E1/4, Sec. 24,
Twp. 12 S. R. 26 E.B.M.

To be diverted from Raft River for
the irrigation of
Lots 1 and 2, Sec. 1, E1/4, Sec. 1,
Twp. 10 S. R. 27
E.B.M., Lots 6 and 7, Sec. 6,
Lot 1, Sec. 7, Twp. 10 S. R. 28
E.B.M.

To be diverted from Raft River
for the irrigation of
Lot 2, Sec. 7, Twp. 10 S. R. 28
E.B.M., from all land adjacent to
the following beginning at the
Appurtenant to all of the land
above described, to the
thence south of town, to the
thence north of town, to the
thence south of town, to the

To be diverted from Cottonwood
Creek
From Cannonia Creek for the
irrigation of
W1/4, Sec. 29, E1/4, Sec. 30,
Twp. 13 S. R. 25 E.B.M. and a
tract of land beginning at the
SW corner of SE1/4, Sec. 32, Twp. 13
S. R. 25 E.B.M., thence north 16
rods, thence East 15 rods, thence
South 16 rods, thence West 15 rods
to place of beginning, Sec. 19,
Twp. 14 S. R. 26 E.B.M.

To be diverted from Raft River
from Apr. 1 to July 1 each year.
To be diverted from Raft River
July 1 to October 1, the same being
apart of the 2 s.f. aforesaid from
April 1 to July 1, and not in
addition thereto.

containing 80 acres.

See 1-2
43-207

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: A43-00192
Date Received: 6/15/1989
Receipt No: S008256
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: F. STANLEY LLOYD 208-638-5543
Address: HC 61 BOX 1510
ELBA, ID 83326

2. Date of Priority: APR 30, 1880

3. Source: GREEN CANYON CREEK Trib. to: CROSS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
14S	24E	11	NW	SE	SE		CASSIA
		12	SW	NW	SW	R	CASSIA

5. Description of diverting works:
HEADGATES AND DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.800		

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

8. Total consumptive use is 185.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
14S	24E	12	SW	SE		IRR	37.0
			SE	SE		IRR	30.0
						Section Acres	67.0

A43-00192

Page 1

Date: 06/15/89

EXHIBIT B

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
14S	25E	7	NW	SW	3	IRR	1.0
			SW	SW	4	IRR	6.0
						Section Acres	7.0
						Total Acres	74.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-04074

14. Remarks:
MEASURING DEVICE IS AT POINT OF REDIVERSION.
USGS LISTS SOURCE AS GREEN CREEK, TRIB. TO CROSS CREEK

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 10/18/1928

ALBION-IDAHO LAND CO.
Decree Plaintiff

vs

JOBE ADAMS ET AL
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: 5008256

F. STANLEY LLOYD
 MC 61 BOX 1510
 ELDO ID 83326

Date: 06-15-87
Time: 1232Z

Received

From: LLOYD, F STANLEY

Type of Payment	Program Acct Class	Amount
ADJUDICATION FEE	0410162 9337 6490	\$211.60
Total		\$211.60
NR/NO: 8000037 Total Clerk Fee		\$1,050.00
CHECK: 5407	Current Bal.	\$1064.40

NR/NO: A43-10506 A43-04073 A43-04072 A43-10303 A43-02527
 A43-00172 A43-04074 A43-10300 A43-10302 A43-02580

Idaho Department of Water Resources

Region: SOUTHERN

Signature: Steve Clelland
Clelland

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 3580 OF) ORDER APPROVING
WATER RIGHT NO. 43-0192 IN) TRANSFER IN PART
THE NAME OF F. STANLEY LLOYD)

This matter having come before the Idaho Department of Water Resources (department) during the review of application for transfer no. 3580 filed pursuant to Section 42-222, Idaho Code, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On June 8, 1989, F. Stanley Lloyd (applicant) filed an application with the department to transfer 0.8 cfs of water under right no. 43-0192. The application proposed changing the the source of water under this right from Green Canyon Creek to a groundwater source. The application also requested a change in the place of use in order to correct the recorded place of use description and show the actual current place of use and amount of irrigated acreage.

2. The applicant has stated on the transfer application that the natural flow of Green Canyon Creek (shown as Green Creek on 7.5 minute USGS topographic maps) is insufficient for full diversion of water under water right no. 43-0192. The applicant therefore has proposed drilling a groundwater well and diverting groundwater from said well to provide the full rate of diversion allowed under right

MICROFILMED

MAY 18 1992

EXHIBIT C

43-0192. The applicant further proposes that the priority date of the groundwater diversion should be the same priority date identified under right no. 43-0192, or April 30, 1880.

3. Department records indicate that right no. 43-0192 is the earliest priority right on Green Canyon Creek. Only one other right from the same source has the same priority date as right 43-0192. All other rights from the same source are junior to right 43-0192. According to claims filed in the Snake River Basin Adjudication, all but three of the junior rights are located downstream from the applicant's point of diversion. The one right with the same priority date, right no. 43-0371, is also located downstream from the applicant's point of diversion.

4. Review of the Department's records also indicate that there are no other groundwater rights upstream from the applicant's point of diversion from Green Canyon Creek.

5. The availability of water from Green Canyon Creek has not changed as a result of the activity of man. Stream flows at the applicants point of diversion have not been depleted by the drilling of wells or changes in upstream diversions. Water unavailability resulting from drought conditions should not justify approval to divert groundwater with a priority date equivalent to the earlier surface water right.

6. Approval of the transfer providing the applicant the ability to divert groundwater under an 1880 priority date surface water right when surface water is not available for delivery under right 43-0192 is an expansion of the original right. Such expansion may result in injury to downstream rights.

MICROFILMED
MAY 18 1992

CONCLUSIONS OF LAW

1. Section 42-222(1), Idaho Code provides direction and authority to the department in the review and approval of water right transfer applications. The statute states in part:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is 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.... In the event that the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same....

2. Approval of the proposed change in point of diversion and source of water from Green Canyon Creek to groundwater would result in an expansion of right no. 43-0192. The proposed changes may further result in injuries to downstream rights.

3. Application for Transfer No. 3580 of Water Right no. 43-0192 requesting a change in point of diversion and source of water from Green Canyon Creek to groundwater should be denied. The proposed change in place of use which corrects the recorded water right place of use should be approved.

ORDER

IT IS HEREBY ORDERED that Application for Transfer No. 3580 of Water Right No. 43-0192 which requests a change in the point of diversion and source of water is DENIED. IT IS FURTHER ORDERED that the requested change in the place of use is APPROVED subject to the following conditions:

1) The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

MAY 18 1992

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) Partial 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.

Dated this 11th day of February, 1992.

L. Glen Saxton
L. GLEN SAXTON, Chief
Water Allocation Bureau

MAY 18 1992

Page 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 3580

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

APPROVED

Name of applicant F. Stanley Lloyd Phone (208) 638-5543
Post Office address HC-61, Box 1516 Elba, Id. 83326

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 Surface water Right to Fulfill Surface water Right to Underground Right
2. Describe the reason for the proposed changes We have a water Right to a volume of water granted by The State of Idaho that we do not receive every year. We believe that we should be allowed to Turn to the Underground Source to fill This Right in The applicable years.

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

1. Right Number 43-0192 Priority 1880 Amount 0.8 cfs Nature of Use Irrigation Period of Use Apr 30 to Nov. 1
Note: (we expect this underground fulfillment source to will carry This same Date of 1880.)
2. Total amount of water being transferred 440.8* cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Green Canyon Creek tributary to Cassia Creek
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
~~24~~	~~SW~~	~~SE~~	~~SE~~	12	14S	24E	Cassia	Green Canyon Ditch (breaks from)
	SW	SW	SE	12	14S	24E	Cassia	well

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
~~14S~~	~~24E~~	~~12~~																	~~39.8~~
14S	24E	12																	40
14S	25E	7																	5

** I've been incorrectly listed use in E 1/2 SE 1/4, should be S 1/2 SE 1/4 in sec 12

* Changes made per telecon 7/7/89 w/ Lloyd, Total acres 39.8 45

PART 1

6. General Information:

a. Description of diversion system Headgate And Citch System to
be supported by Irrigation well

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

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

No Change in land Irrigated

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. 43-00192

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

See attached order.

Witness my hand this

11th day of

February, 1992

J. Glen Taylor
Chief, Water Allocation Bureau

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: # 992

- a. Decree No. 43-0192 Decreed to S.H. Lloyd
in case of Albion Idaho Land Company vs. Jobe Adams, Et.al
dated 17 May 1922 in U.S. District Court county of Cassia
- 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 (Canyon)* ☐ Warranty Deed ☐ Other _____

3. Source of water Green Creek tributary to Cassia Creek

4. Date or priority 1880 (4/30/1880)*

5. Water is used for the following purpose:

amount 0.4 CFS for Irrigation purposes from Apr. 30 to Nov. 1
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for 0.8 X purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.4 CFS 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
<u>4</u>	<u>SW</u>	<u>SE</u>		<u>12</u>	<u>14S</u>	<u>24E</u>	<u>Cassia</u>	<u>Green Canyon Ditch</u>

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	
<u>14S</u>	<u>24E</u>	<u>12</u>													<u>I</u>			<u>I</u>	<u>0.4</u>
<u>14S</u>	<u>25E</u>	<u>7</u>																	<u>0.4</u>
(Acres unspecified in decree)																			

Total acres 0.4

9. Describe any other water rights used for the same purpose as described above None (Stat claim 43-4074)

*Changes made per telecon 7/2/89 w/ F. Stan Lloyd by DBJ

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.)

- 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	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands Irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

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

- 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	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands Irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

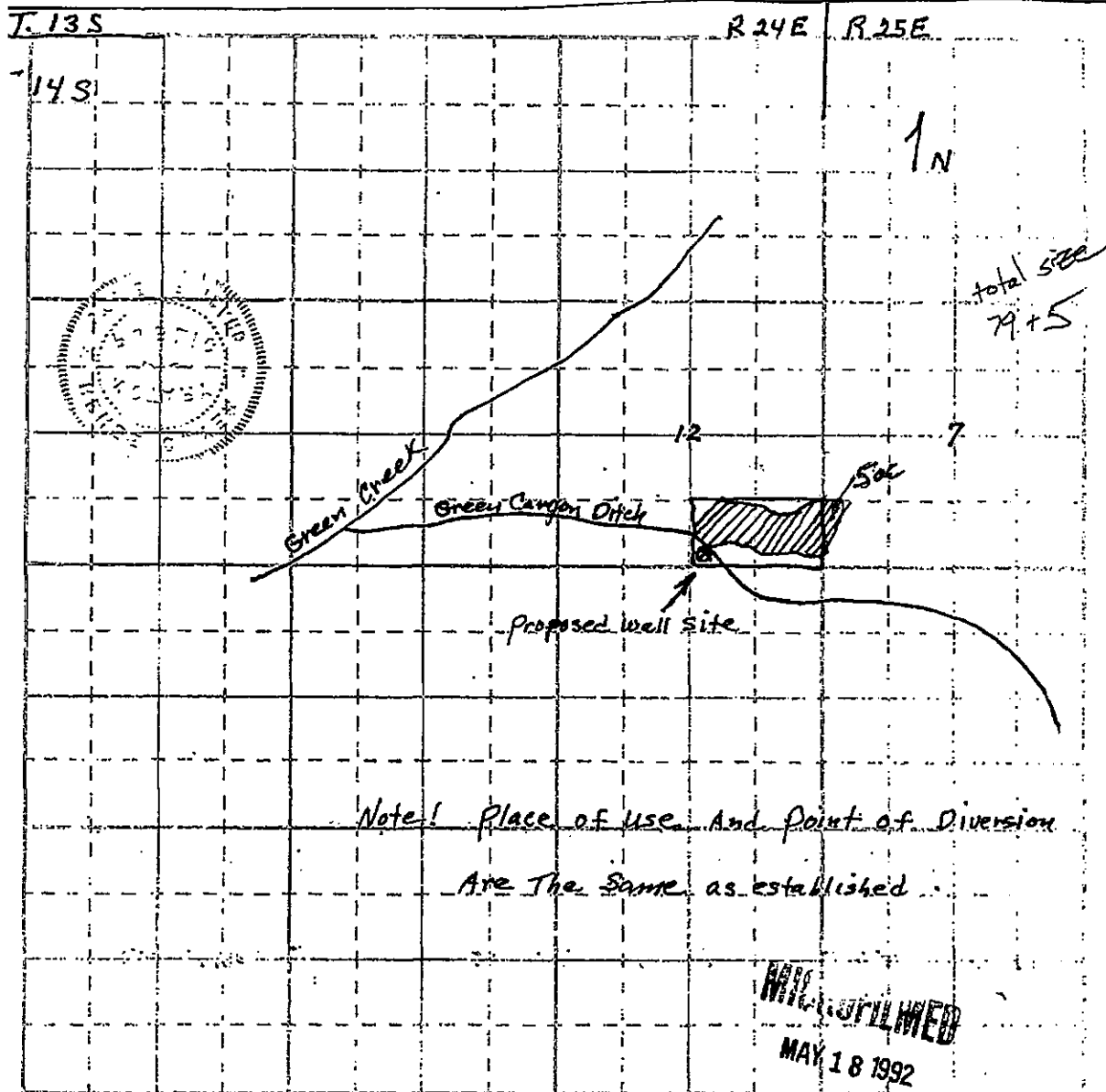
MAILED
MAY 18 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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



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



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
	~~Same Use~~	~~0.4 CFS~~	~~24/180~~	~~Apr. 30 to Nov. 1~~

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

~~Probably any discharge would be To The Underground with~~
~~Minimum Surface Discharge To Local Drainage. Quality - Good.~~

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

None

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.

Subscribed and sworn to before me this eight day of June, 19 89.

F. Stanley Lloyd
(Signature of Applicant)

Renee Smeyer
(Notary Public)

My commission expires July 11, 1993

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 5 attachments

Received by DRJ Date 6/2/89 Protest filed by _____

Prelim. check by DRJ Fee \$50 5007670

Recelpted by DRJ Date 6/2/89

Published in South Idaho Press Copies of protest forwarded by _____

Pub. dates 6/21 & 6/28/90 Hearing held by _____ Date _____

Watermaster recommendation requested on 6/8/90 Recommended for ☐ approval ☐ denial

_____ rec'd. 7/23/90 by _____

Copy of transfer sent to lien holder _____

MICROFILMED

MAY 18 1992

43-00192 & 43-04074
GREEN CANYON CREEK / SPRINGS, PLACE OF USE

43-00192 ANALYSIS

The source for this right is Green Canyon Creek. The point of diversion and delivery system are shared with other claimants on different places of use (P/D overlap). Transfer 3580 was approved on 2-11-92 to correct the place of use for this right. The transfer was approved for a total irrigated place of use of 45 acres. This analysis starts with the premise that the transfer established the place of use by quarter/quarter as of 1992 and therefore I cannot recommend acres in excess of the number of acres identified by the transfer. Any changes to the system creating a change in the place of use would necessarily require a new transfer. As the transfer specifically established the place of use, I cannot recognize an unrecorded transfer of the place of use after that date. The transfer was also filed to change the source from Green Canyon Creek to groundwater. That portion of the transfer was disallowed.

I conducted a field examination on 7-28-94 and interviewed Stan Lloyd on 10-27-99 at his home. The transfer identified four different quarters as parts of the irrigated place of use. See the table below.

	Sec 12		Sec 7		
	SWSE	SESE	NWSW	SWSW	
Claimed and transfer approved acres	23	17	1	4	45
Found irrigated acres	9.1	32	1.7	7.1	
Recommended acres	9.1	17	1	4	31.1

Analysis of Sec 12 SW $\frac{1}{4}$ SE $\frac{1}{4}$

The transfer identified 23 irrigated acres within that quarter/quarter and I found 9.1 irrigated acres. Through the field examination and my conversations with Stan Lloyd, I identified approximately 14 acres that had been irrigated prior to 1992 but were no longer being irrigated. The delivery system from Green Canyon Cr. ditch that irrigated the 14± acres was replaced with a different diversion from the same ditch approximately 800 feet downstream from that diversion. According to Stan Lloyd this occurred in 1992.

Analysis of 13.9 acres no longer being irrigated.

1. The transfer established the place of use as of 1992.
2. The irrigation system changed subsequent to that date.
3. No irrigation was possible after 1992 for the 13.9 acres.
4. No legal remedies were sought to protect those acres.
5. The acres are currently not being irrigated.

I am recommending that the 13.9 acres no longer irrigated in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ for forfeiture based upon non-use from 1992 through the present.

Analysis of SESE of Sec 12, and all irrigated quarters of Sec 7

The diversion point that was developed approximately 800 feet downstream from the original diversion carries water roughly through the center of the place of use and can also be diverted into the southern most spring delivery system. Through various secondary ditches, Green Canyon Creek water can be applied to the balance of the place of use. There was a pipeline coming from the Green Canyon ditch in the NWNW of Sec 13 that ran north into the place of use but Stan indicated that this system had been abandoned also. This diversion would have irrigated much of the same place of use as covered by the same southern spring system mentioned above. The transfer established the maximum number of irrigated acres in each of the three remaining forties and I found irrigated acres that exceeded the transfer acres for all three. Therefore I am recommending the acres by quarter/quarter as established in the transfer.

43-04074 ANALYSIS

There are three distinctive diversion points for the spring seeps within the claimed place of use. Although the three diversion points are independent, the place of use under the three diversions overlap and are operated together to completely irrigate the found place of use. Therefore, I accept the three diversions as one system under one claim. The diversion rates from the three locations are additive to determine the legal limit for the recommended diversion rate. A portion of the place of use is normally a wetland and does not require additional water but can dry up in the late fall and require irrigation at that point.

There is one point of diversion in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ that goes into a ditch that runs easterly to the northeast corner of the place of use. Water flows generally southeast from the ditch. Scott King provided a mannings analysis for data recorded by Allen Merritt and Kelly K Christensen. The spring was identified as spring # 8. The calculations gave a system capacity for this ditch system as 0.77 cfs.

A second point of diversion is in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$. That diversion is tied into a pipeline the runs generally south to the central drainage running through the claimed place of use. Gravity flow is east to southeast from this pipeline. No diversion capacity was calculated for this point of diversion.

The third diverted spring is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$. The ditch from this point of diversion runs virtually straight east along the southern side of the property and forms the southern most boundary for the place of use. Water flows north to northeast from this ditch. Green Canyon Creek water can be diverted into this system. Scott also analyzed this spring from data prepared by Allen and Kelly. The system capacity was determined to be 1.13 cfs.

I am recommending this claim for all found irrigated acres as spring water can reach the entire place of use for one inch per acre or 1.00 cfs as the system capacity exceeds the one inch per acre legal limit.

PREPARED BY: Kelly K Christensen

December 8, 1999

43-00192 4074 Lloyd gm can cr