

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 37-20614
Date Received: 12/5/2001
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

4 BROTHERS DAIRY INC

Phone: (208) 886-7716

425 N 250 W
SHOSHONE ID USA 83352

2. Date of Priority: 12/19/1974

3. Source: GROUND WATER

Trib. to: ,

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	17E	9	NE NW	LINCOLN	
05S	17E	9	NE NW	LINCOLN	

5. Description of diverting works:

TWO WELLS AND PUMPS FOR DAIRY OPERATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.58	117
COMMERCIAL	01/01	12/31	0.58	41.5

7. Total Quantity Appropriated is:

0.58 C.F.S. and/or 158.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05S	17E	9	NE	NW	STOCKWATER	
			NW	NW	STOCKWATER	
			NW	NW	COMMERCIAL	

11. Place of use in counties: LINCOLN

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

13. Other Water Rights Used:

14. Remarks:

THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF DIVERSION UNDER TRANSFER 5183 SHALL NOT EXCEED 0.58 CFS, NOR A TOTAL COMBINED ANNUAL VOLUME OF 158.5 AF.

Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.

TWO POINTS OF DIVERSION LOCATED IN T05S, R17E, S09, NENW.

Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

15. Basis of Claim: License

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5183
WATER RIGHT NO. 37-07413B

This is to certify that: **4 BROTHERS DAIRY INC**
425 N 250 W
SHOSHONE ID 83352

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.58 CFS	117.0 AF
COMMERCIAL	01/01 to 12/31	0.58 CFS	41.5 AF
	Totals	* 0.58 CFS	* 158.5 AF

SOURCE
GROUNDWATER

Priority: 12/19/1974

LOCATION OF POINT(S) OF DIVERSION: NENW , Sec. 9, Township 05S, Range 17E
LINCOLN County

PLACE OF USE: STOCKWATER

TWN RGE SEC

05S 17E 9 NENW NWNW

PLACE OF USE: COMMERCIAL

TWN RGE SEC

05S 17E 9 NWNW

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
3. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

MICROFILM
MAY 14 1998

TRANSFER NO. 5183
WATER RIGHT NO. 37-07413B

CONDITIONS OF APPROVAL AND REMARKS

4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. 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.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
- * 8. The total instantaneous diversion of water from all points of diversion under Transfer 5183 shall not exceed 0.58 cfs, nor a total combined annual volume of 158.5 af.
9. Two points of diversion are located within NENW, S09, T05S, R17E.
10. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
11. The remainder of Right 37-07413 is identified as 37-07413A and is limited to a diversion rate of 1.12 cfs, an annual diversion volume of 309.6 af, and irrigation of 77.4 acres each year.
12. The acres which are no longer authorized for irrigation under Right 37-07413A are specifically described as follows: 39.0 acres in the SENE, and 0.3 acres in both the NESE and SESE, S20, T06S, R18E.

Dated this 22nd day of

April, 1998

Z. Glen Saxton
Chief, Water Allocation Bureau

RECORDED
MAY 14 1998

REFUND REQUEST

TO: S. Sherman to Log In
 FOR: D. Shaff/D. Allen
 FROM: S. Sherman Date: 7-12-02
 SUBJ: Receipt No. 5024501 (Please attach ARQ2 Receipt copy immediately behind blue form)

RE: PayOR 4 Bros. Dairy Inc.
 Address 427 N 250 W.
Shoshone ID 83352

Claimant(s) if NOT Payor —
 Refund Amount \$ 25.00 Claim Location (Region/Claimant) S. C. Cleveland State of C.
 Extension Filed? Y/N NA Copy Attached? Y/N NA
 Late Fees Paid? Y/N NA Late Fee Receipt # —
 S.O. Verified Ext. by — on — D.B. Query by —
 Refund Generated By () Agent (v)hl () Claimant
 Refund Category:
 insufficient fees / claim incomplete / withdrawn / (o-pmt)

Date of Last Correspondence (copy attached) —

Claim No.	Use*	Fees Paid	Correct Fee	Rec't #
<u>37-74138</u>	<u>Commercial, 04</u>	<u>\$25.00</u>	<u>0</u>	<u>5024501</u>
<u>(Now 37-20614)</u>		\$		
		\$		
		\$		
		\$		
		\$		
Total		\$	\$	

*Incomplete claims or insufficient fees for irrigation use will generally NOT be refunded. D.E. claim in AJSP1 at minimum.

Detailed Reason(s) for Refund Attached (Y/N)
no fee due on ownership change when it was
received 12-27-01.

Region AJ Spvsr. Approval — S.O. AJ Spvsr. Approval —
 Don Shaff Approval — Hold — To Fiscal 7-15-02
 Logged 7-12-02
 Data Base Modified? Y/N NA A &/or R Records By — on —



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

July 13, 2002

KARL J. DREHER
DIRECTOR

4 BROS DAIRY INC
427 N 250 W
SHOSHONE ID 83352

RE: Snake River Basin Adjudication (SRBA)
Notice of Change of Water Right Ownership Fees
Notice of Claim #37-7413B (Renumbered to 37-20614)

Dear Claimant:

The water right claim referenced above is still pending in the SRBA; therefore, no fees are due. The refund process has been initiated with the State Auditor's Office for the \$25.00 fee you paid on receipt #S024501. You should receive a check in the near future.

For future reference, you can determine if a water right claim has been decreed by checking the SRBA Court's site at www.srba.state.id.us. Scroll to IWATRS Reports, then scroll down to Display a Subcase Summary Sheet, enter the adjudication claim number (xx-xxxxx). This will tell you if and when a partial decree was issued. If it HAS been decreed, there is a \$25.00 ownership change fee due with each water right. If it has NOT been reported or decreed yet, and is therefore still pending in the SRBA, there is no fee due.

Sincerely,

Donald V. Shaff
Manager
Adjudication Technical Section

DVS:ss:ref



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

JULY 11, 2002

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

4-BROS DAIRY INC
C/O ANDREW FITZGERALD
427 N 250 W
SHOSHONE ID 83352

RE: NOTICE OF ERROR REPLY FOR 37-20614 (AKA 37-7413B)

Dear Mr. Fitzgerald,

After reviewing your Notice of Error reply form I understand you request for the old license number 37-7413B as was issued as a result of the transfer process. However, Mr. McCowan filed the SRBA claim as 37-7413 and in order to split the claim, our new computer system assigns another number to the split portions. Therefore, part 37-7413A is now 37-20613 and your part 37-7413B is 37-20614. I know it sounds confusing but the process does simplify the multiple splitting of other rights in our system's database. I would be happy to discuss this further if you wish.

Your second issue stated the POU should be for the full 80 acres. I recommended the right as it was described in the transferred portion 37-7413B. Any additional changes to the POU will require a transfer as you are well aware. If you are referring to the map layout, it simply represents the current development within the allowed POU.

If you have further questions on this water right then please feel free to call me at our office.

Sincerely,

STEVE CLELLAND
Sr. Water Resource Agent

ENC:

RECEIVED

JUL 11 2002

06/22/2002

NOTICE OF ERROR
REPLY
Department of Water Resources

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: July 23, 2002

Water right number: 37-~~20014~~

4-BROS DAIRY INC
C/O ANDREW FITZGERALD
427 N 250 W
SHOSHONE ID 83352
Telephone Number: (208) 886-7716

07413 B

address is
corrected as
shown
7/11/02
SCC

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

RIGHT NUMBER IS INCORRECT INCLUDED IS COPY
OF CORRECTED RIGHT #.

2. Describe the changes you wish to make in the proposed recommendation:

PIECE OF USE IS INCORRECT SHOD BY FOLL 80
ACRES

3. Give a brief explanation as to why you disagree with these portions:

SEC RIGHT ~~INCORRECT~~

I AGREE with this proposed recommendation: no changes need to be made.

DATE: 7-5-02 SIGNATURE: Andrew Fitzgerald

Please print your name: ANDREW FITZGERALD

IDWR State Office, PO Box 83720, Boise ID 83707-9815

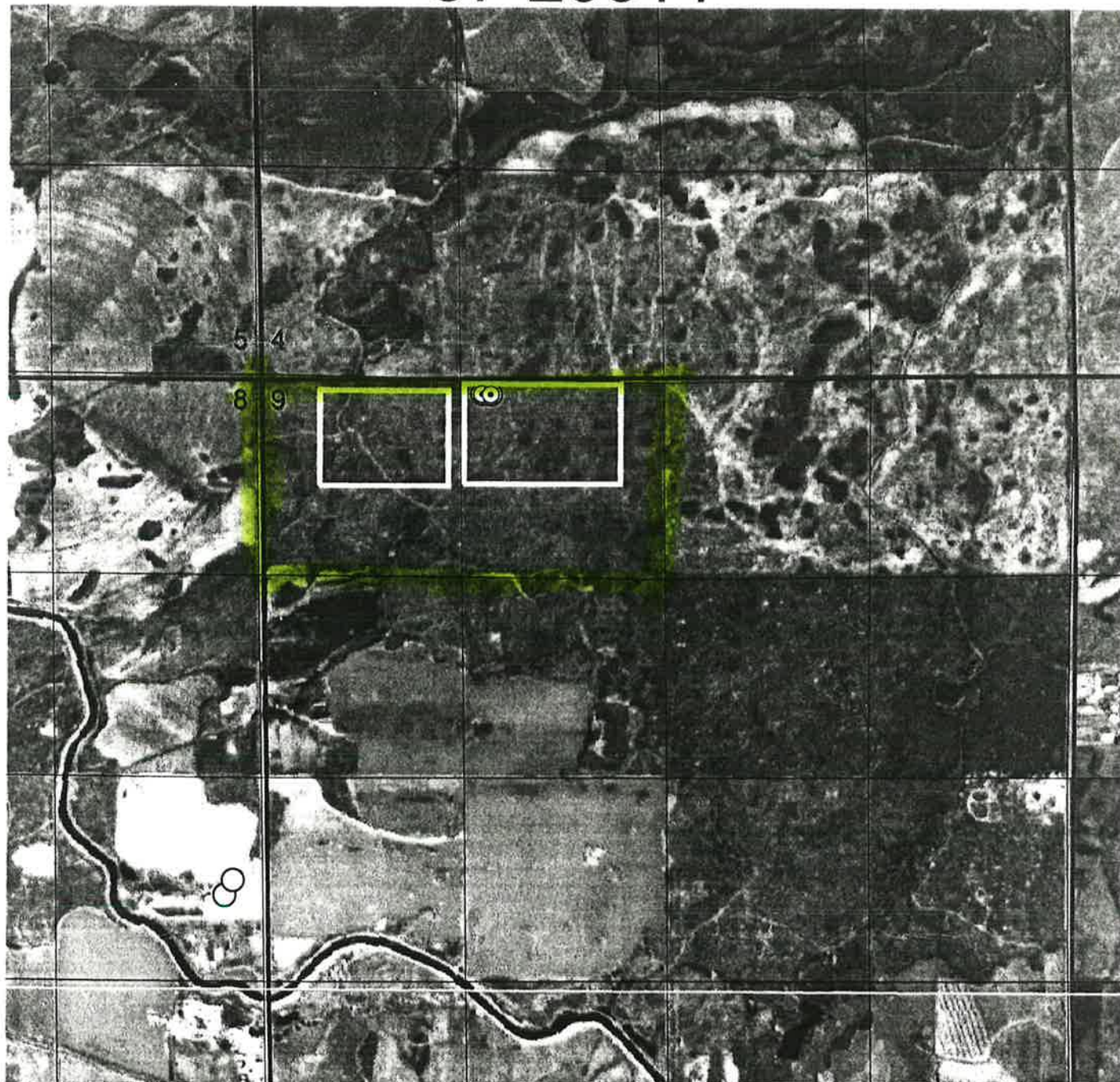
THE WATER IS FOR A DAIRY

7/11/02
SCC

1. Right # is result of split of the SRBA claim 37-7413 into two parts. New computer system assigns the numbers. (split by trans)
2. POU is the same as shown by License 37-7413 B and can only be changed by Transfers. The map is showing current areas developed within the allowed POU. (Letter sent)

IDAHO DEPT OF WATER RESOURCES

37-20614



1320 0 1320 Feet

Basin 37 part 1-POU

⊙ Basin 37 part 1-POD

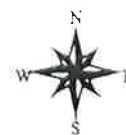
Ownership FED-Private

Streams

Section Lines

Quarter - Quarter lines

TWN: 5S
RNG: 17E
SEC: 9
COMMERCIAL
STOCKWATER



GIS Place of Use Presentation
NAPP Aerial Photo 1987/1988
By Steve Clelland

Date: December 5, 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5183
WATER RIGHT NO. 37-07413B

This is to certify that: 4 BROTHERS DAIRY INC
425 N 250 W
SHOSHONE ID 83352

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.58 CFS	117.0 AF
COMMERCIAL	01/01 to 12/31	0.58 CFS	41.5 AF
	Totals	* 0.58 CFS	* 158.5 AF

SOURCE
GROUNDWATER

Priority: 12/19/1974

LOCATION OF POINT(S) OF DIVERSION:

NENW , Sec. 9, Township 05S, Range 17E
LINCOLN County

PLACE OF USE: STOCKWATER

TWN RGE SEC

05S 17E 9 NENW NWNW

PLACE OF USE: COMMERCIAL

TWN RGE SEC

05S 17E 9 NWNW

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
3. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

IDAHO DEPARTMENT OF WATER RESOURCES 12/05/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

Water Right **37-20614**

1

NAME AND ADDRESS: 4 BROTHERS DAIRY INC
425 N 250 W
SHOSHONE ID 83352

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.58 CFS
158.5 AFY

PRIORITY DATE: 12/19/1974

POINT OF DIVERSION:

T05S R17E S9 NWNENW Within LINCOLN County

T05S R17E S9 NWNENW Within LINCOLN County

TWO POINTS OF DIVERSION LOCATED IN T5S, R17E, S9, NWNENW.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.580 CFS 117.00 AFY
COMMERCIAL	01/01 12/31	0.580 CFS 41.50 AFY

PLACE OF USE: STOCKWATER Within LINCOLN County

T05S R17E S09 NENW T05S R17E S09 NWNW

COMMERCIAL Within LINCOLN County

T05S R17E S09 NWNW

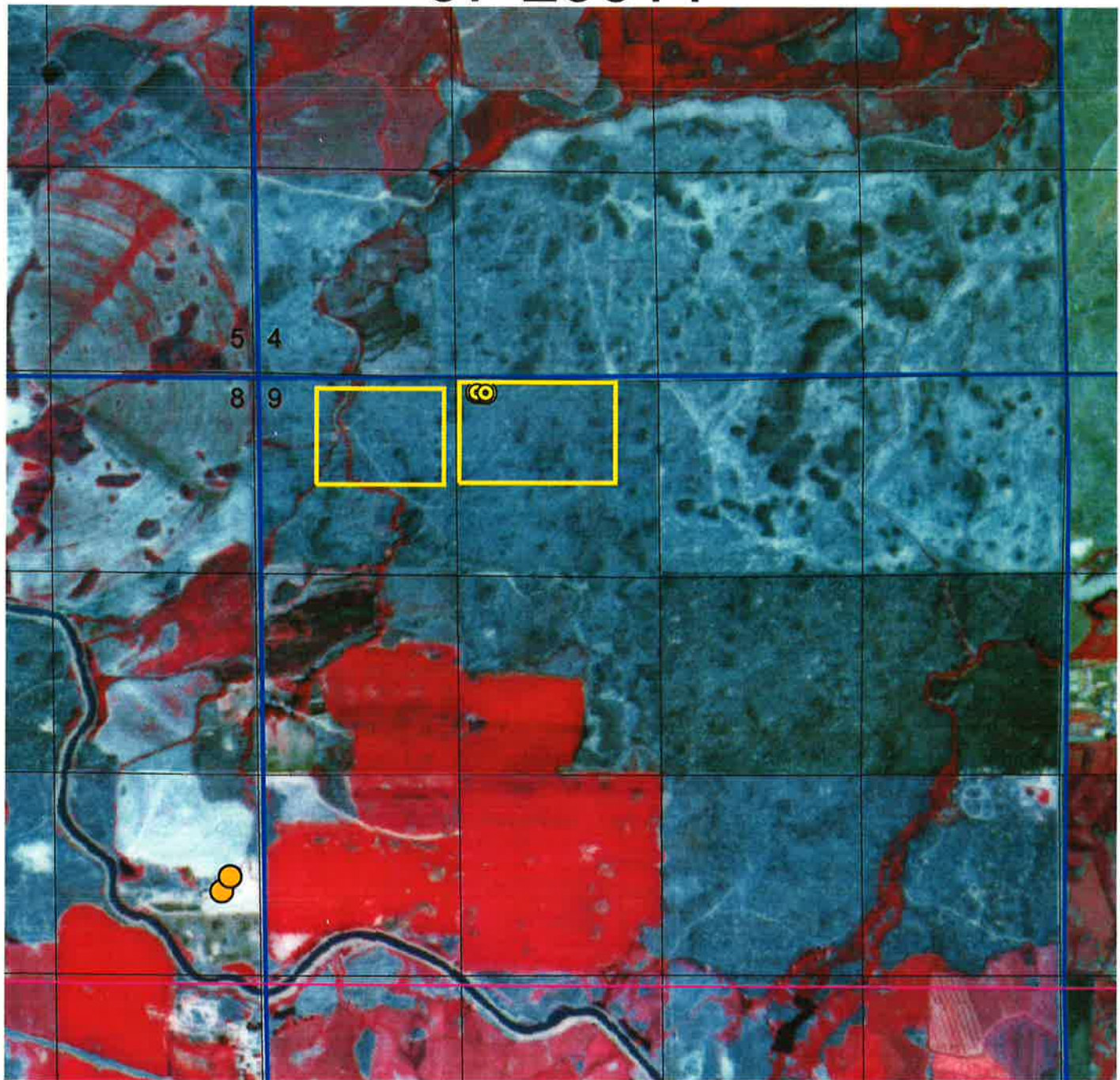
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: License

IDAHO DEPT OF WATER RESOURCES

37-20614



1320 0 1320 Feet

-  Basin 37 part 1-POU
-  Basin 37 part 1-POD
-  Ownership FED-Private
-  Streams
-  Section Lines
-  Quarter - Quarter lines

TWN: 5S
RNG: 17E
SEC: 9
COMMERCIAL
STOCKWATER



GIS Place of Use Presentation
NAPP Aerial Photo 1987/1988
By Steve Clelland

Date: December 5, 2001

Water Right Report 37-7413B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	4 BROTHERS DAIRY INC 425 N 250 W SHOSHONE, ID 83352 (208)886-7716
Original Owner	HERBERT MC COWAN

Status: Active

Tributary

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.580 CFS	117.00 AF
COMMERCIAL	1/01 to 12/31	0.580 CFS	41.50 AF
	<u>Total Diversion:</u>	0.580 CFS	158.50 AF

GROUND WATER NE1/4NW1/4 Sec. 9, Twp 05S, Rge 17E, B.M.
LINCOLN County

STOCKWATER

[illegible][illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-7413B

Conditions of Approval:

1. 028 After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
2. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
3. 081 Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
4. 082 The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T09 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.
8. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Remarks:

1. General The total instantaneous diversion of water from all points of diversion under Transfer 5183 shall not exceed 0.58 cfs, nor a total combined annual volume of 158.5 af.
The remainder of Right 37-07413 is identified as 37-07413A and is limited to a diversion rate of 1.12 cfs, an annual diversion volume of 309.6 af, and irrigation of 77.4 acres each year.
The acres which are no longer authorized for irrigation under Right 37-07413A are specifically described as follows: 39.0 acres in the SENE, and 0.3 acres in both the NESE and SESE, S20, T06S, R18E.
Two points of diversion are located within NENW, S09, T05S, R17E.

Comments:

1. PSKAGGS 4/10/1998 **TRANSFER 5183**

Comment: Transfer 5183 changes & adds 1 point of diversion, and changes the place, nature & season of use under a portion of Right 37-07413, splitting the right into Parts A & B. Irrigation use is being changed to stockwater & commercial use for a dairy.

Dates and Other Information:

Licensed Date: 4/12/1982
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False