

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/4/2020

Water Application 43-7222

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CHAPARRAL & CO PO BOX 1188 BURLEY, ID 83318
Current Owner	D L EVANS BANK PO BOX 87 TWIN FALLS, ID 83303-0087 (208) 736-9300

Priority Date: 7/1/1985

Status: Rejected

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	1.840 CFS	
	<u>Total Diversion</u>		1.840 CFS	

Source and Point(s) of Diversion

GROUND WATER	NESE	Sec. 29, Twp 14S, Rge 27E,	CASSIA County
GROUND WATER	SWSW	Sec. 28, Twp 14S, Rge 27E,	CASSIA County

Place Of Use

IRRIGATION within CASSIA County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	27E	28							37.0			22.0							59.0
14S	27E	29				34.0													34.0

POU Total Acres: 93.0

Conditions of Approval:

1. AC. IRR. = 92

Comments:

1. skeen 6/22/2001 Explanatory Comment
Application rejected because the applicant does not have access to the place of use.

Dates and Other Information

Number of Protests: 0
Water District Number: TBD
Application Type: New Appropriation
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/4/2020

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

RECEIVED

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 1, 1994

FEB 03 1994

Department of Water Resources
Southern Region Office

RE: In the matter of permit no. 43-07222 in the name of Chaparral and Company and D.L. Evans Bank

Dear Interested Party:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

43-07222

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district

court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Glen Saxton".

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED

FEB 03 1994

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 43-07222 IN)
THE NAME OF CHAPARRAL AND CO)
AND D. L. EVANS BANK)
_____)

PRELIMINARY ORDER

Department of Water Resources
Southern Region Office

This matter having come before the Idaho Department of Water Resources (department), as a result of the review of applications pending in department files, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 1, 1985, Chaparral and Co. and D. L. Evans Bank (applicant) filed Application for Permit No. 43-07222 with the department proposing the diversion of 1.84 cubic feet per second of ground water from wells within the SW1/4SW1/4 Section 28, T14S, R27E, BM. and NE1/4SE1/4 Section 29, T14S, R27E, BM., Cassia County to be used for the irrigation of 92 acres within Sections 28 and 29, T14S, R27E, BM.

2. On May 24, 1989, the department received an inquiry concerning assignment of the application, since the applicant reportedly defaulted on a loan mortgage.

3. On May 26, 1989, the department corresponded with the inquiring party and advised that a completed assignment form filed with the department would change the owner of the pending application. The department has heard nothing further in connection with the application from any party.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that

it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. Water Appropriation Rule 45.01.c. provides that an application is made in good faith if the applicant has legal access to the property necessary to construct and operate the proposed project or has the authority to construct and exercise eminent domain authority to obtain such access.


3. The applicant does not have access to the property described in the application.

4. The department should reject the application for failure to have legal access to the proposed place of use.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 43-07222 is **REJECTED** pursuant to provisions of Section 42-203C, Idaho Code.

Dated this 1st day of February, 1994.


L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 1st day of February, 1994,
I mailed a true and correct copy, postage prepaid, of the foregoing
Preliminary Order rejecting an Application for Permit to the
following parties:

Chaparral and Company
and D.L. Evans Bank
P.O. Box 1188
Burley, ID 83318

IDWR - Southern Region
222 Shoshone St. E
Twin Falls, ID 83301


JULIE L. YARBROUGH
Senior Secretary

Water Right Number - 43-07222

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CHAPARRAL AND CO.

1 - P.O. BOX 1188

2 -

3 -

City- BURLEY

State- ID Zip- 83318

Phone - 208-000-0000

D.L. EVANS BANK

1 -

2 -

3 -

City-

State- ID Zip-

Phone - 208-000-0000

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
07/01/1985 17 SOUTHERN A - APPLICATION+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
GROUNDWATER

Tw	Rng	Sec	Tract	Lot	Rflg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
14S	27E	28	SW SW			(31) CASSIA				
		29	NE SE			(31) CASSIA				

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		03/15	11/15		1.840	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
1.840

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
14S	27E	28	SW NW		37.0	01	IRRIGATION	(31) CASSIA
14S	27E	28	NW SW		22.0	01	IRRIGATION	(31) CASSIA
14S	27E	29	SE NE		34.0	01	IRRIGATION	(31) CASSIA

Total Acres: 93.0

+ - - Diversion Means - WELLS, PUMPS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 43-4109, 43-2239, 43-2282

+ - - - - - Remarks - - - - - +
AC. IRR. = 92

Water right number - 43-07222

Prefix Translation: WATER RIGHT

+ - - - - Old Water Right Numbers - - - - - +

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - 09/22/87 05/28/88 CONVERT 07/10/89 CURTIS

+ - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date - 00/00/0000	Field Exam Made - 00/00/0000	Field Exam Fee -
Approved/Denied - 00/00/0000	Protested Date - 00/00/0000	Swan Falls - G
Proof Made Date - 00/00/0000	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 00/00/0000	Verified Date - 00/00/0000	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District -
Licensed Date - 00/00/0000	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 00/00/0000	Presumption Flag -	