

2004

Ident. No. TC-34-49

DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

RECEIVED

JUN 14 2004

(To change point of diversion, place of use or purpose of use)

Department of Water Resources
Eastern Region

Name of Applicant Arb Whitworth Phone 208-588-2820
Post Office Address 5425 Hi-Way 93 Mackay, Id 83251

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and the reason(s) thereof: Transferring 2.2 CFS out of River to Ground Water Pump listed below. With the connection of Lost River the priority date on Pump is to date to us. Currently have a crop of Hay that could be lost without transfer.

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

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>34-10164</u>	<u>1875</u>	<u>2.2 CFS</u>	<u>Irrigation</u>	<u>5/1</u> to <u>10/15</u>
				to
				to
				to

2. Total amount of water being transferred 2.2 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Ground Water tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
<u>Same as below - see Enclosed Map</u>									

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>8N</u>	<u>22E</u>	<u>35</u>			<u>31</u>	<u>31</u>									<u>31</u>	<u>31</u>			<u>124</u>
		<u>36</u>							<u>31.2</u>										<u>31.2</u>

Total Acres 156.2

6. General Information:

TC-34-49

- a. Who owns the water right to be changed? Self- Herb Whitworth
- b. Describe the arrangement allowing use of the right It is in my best interest to Transfer right as long as river stays connected
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Without the rest of my rights that are currently not on, this water does little or no good
- d. Has the water right sought to be transferred been used this year? yes If yes, explain. It was used on it's point of use and will be until Transfer is complete
- e. Absent the changes, how would the right be used for the remainder of the year? For Irrigation on it's original point of use.
- f. Describe other water rights used for the same purpose.
I have numerous water rights with later priorities with the same P.O.U.
- g. Remarks: As long as lost river is connected, this water will be put to better use with the Transfer, when River Breaks the Pumps Priority will come back on allowing the use of it's Priority and Transferred water will go back to where it can be used efficiently.

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and 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.

Herb Whitworth
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 6-14-04 Fee 50⁰⁰

Receipted KCW # E029983 Recommend: ☒ approve ☐ deny

Watermaster recommendation _____

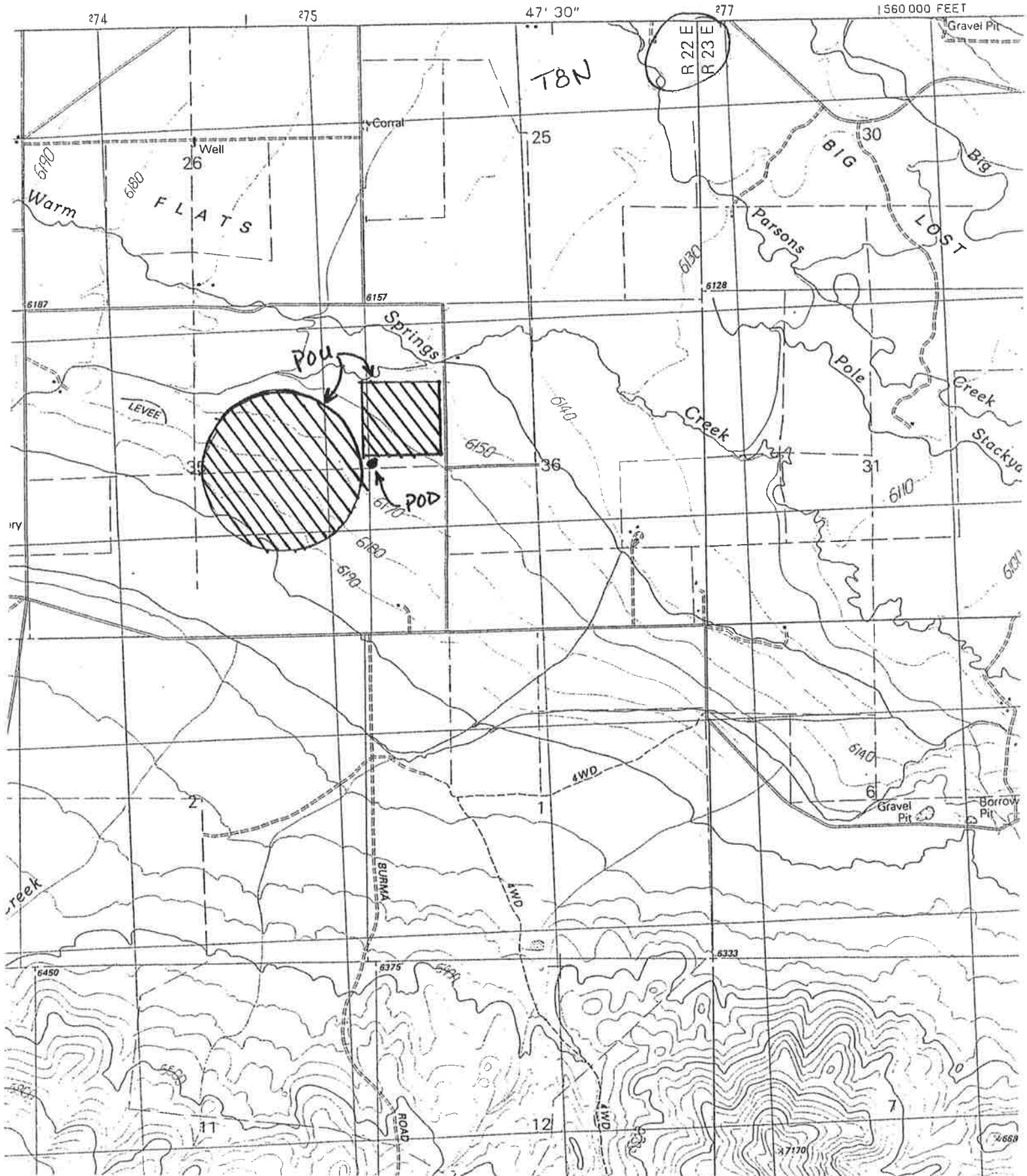
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-34-49

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

Witness my hand this 23rd day of June, 2004.

[Signature]
For the Director



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

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF WATER RIGHT)
IN THE NAME OF Herb Whitworth)
34-10164)
_____)

**Order
DENYING
TEMPORARY CHANGE
TC - 34 - 49**

WHEREAS, a drought emergency has been declared for Custer County to allow administrative actions to lessen the severe impacts of the drought conditions in the counties; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, *Idaho Code*; and

WHEREAS, on June 14, 2004, Herb Whitworth submitted the attached Temporary Application for Change of Water TC-34-49 to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application **CANNOT** be approved for the following reasons;

ORDER

IT IS HEREBY ORDERED that the application is **DENIED** for the following reasons:

1. The proposed Temporary Change Application constitutes an enlargement of the water right described on the application
2. The proposed Temporary Change Application cannot be administered to prevent injury to other water users.
3. _____

DATED this 23rd day of June, 2004



RONALD D. CARLSON
EASTERN REGION MANAGER

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

RECEIVED

JUN 14 2004

Transfer Application No:

Water Right No(s): 34-10164

Department of Water Resources
Eastern Region

Transfer Applicant's Name: Herb Whitworth

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) Additional Comment:

Dated this 11th, day of June, 2004

Water District No: 34


Watermaster's Signature

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 34-7595

WATER RIGHT NUMBER: 34-7595

INFO ONLY

Owner TypeName and Address

Current Owner

IDAHO COWBOY INC, C/O DAVID STOECKLEIN, PO BOX 856, KETCHUM, ID 83440
(208)726-5191

Priority Date: 01/11/2000

Basis:

Status: Active

SourceTributary

GROUND WATER

Beneficial Use

From To

Diversion RateAnnual Volume

IRRIGATION

4/01 to 10/31

3.120 CFS

Total Diversion:

3.120 CFS

Location of Point(s) of Diversion

GROUND WATER

SW1/4NW1/4

Sec. 36,Twp 08N,Rge 22E, B.M.

CUSTER 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	
08N	22E	35			31.0	31.0									31.0	31.0			124.0
08N	22E	36							32.2										32.2

Remarks:

1. General Use of water under this right is subject to the terms of the mitigation plan submitted by the right holder. Rights 34-703B, 34-704B, 34-573B, 34-583B, 34-584D, 34-699B, 34-702B, & portions of Rights 34-703C, 34-704C, 34-699C, 34-700C, 34-701C & 34-00702C are to serve as mitigation for diversion under this right for any irr season that the right holder wishes to divert groundwater instead of surface water. The water normally delivered under Rights 34-703B, 34-704B, 34-573B, 34-583B, 34-584D, 34-699B, 34-702B & portions of Rights 34-70C, 34-704C, 34-699C, 34-700C, 34-701C & 34-702C shall remain undiverted in Warm Springs Creek & the Big Lost River in any year that the right holder diverts groundwater under this right. Water rights from the Warm Springs Creek source shall be subject to terms & limitations contained in the Stipulation, Settlement, & Joint Motion for Order filed with the Department on 10/12/1999, in the matter of Application for Permit No. 34-07591, in the name of L & S Partners, numerous other captioned matters, and the Preliminary Order of the Department issued on 11/18/1999. This approval is subject to any future modifications resulting from or required by the terms of that Stipulation, the Preliminary Order of the Department, & the actions taken pursuant thereto. Water will not be diverted from groundwater under this right at such times when an equivalent amount of the surface water rights provided for mitigation is not deliverable. The right holder shall be entitled to cease use of the groundwater right & resume use of the surface water rights upon request in writing to the Water District 34 watermaster prior to the beginning of the irrigation season. The right holder shall not be entitled to divert from both sources in any year. Prior to diversion of water under this right, the right holder shall install & maintain a measuring device & a totalizing meter which displays the instantaneous rate of diversion from the well. Written notice of compliance with this condition shall be submitted to IDWR. If the measuring device or totalizing meter becomes inoperable at any time, diversion of water from the well under this right shall cease. Rights 34-573B, 34-583B, 34-584D, 34-699C, 34-700C, 34-701C, 34-702B, 34-702C, 34-703B, 34-703C, 34-704B, 34-704C, & 34-7595 when combined shall not exceed the irrigation of 269.2 total acres. During any irr season that groundwater is diverted under this right, use of water rights 34-573B, 34-583B, 34-584D, 34-699C, 34-700C, 34-701C, 34-702B, 34-702C, 34-703B, 34-703C, 34-704B & 34-704C is limited to a total combined diversion rate of 4.70 cfs.

Dates and Other Information:

Permit Proof Due Date: 3/1/2005
 Permit Approved Date: 5/19/2000
 Water District Number: 34

Gary,
 I also found this permit
 From a well in SWNW sec 36, T8N, R22E
 when I look at the map with the
 permit the attached map was
 the same. Kcw
 P.S. attached map came
 with Temp. Change

Use of water under this right is subject to the terms of the mitigation plan submitted by the right holder. Rights 34-00703B, 34-00704B, 34-00573B, 34-00583B, 34-00584D, 34-00699B, 34-00702B, and portions of Rights 34-00703C, 34-00704C, 34-00699C, 34-00700C, 34-00701C and 34-00702C are to serve as mitigation for diversion under this right for any irrigation season that the right holder wishes to divert groundwater instead of surface water. The water normally delivered under Rights 34-00703B, 34-00704B, 34-00573B, 34-00583B, 34-00584D, 34-00699B, 34-00702B and portions of Rights 34-0070C, 34-00704C, 34-00699C, 34-00700C, 34-00701C and 34-00702C shall remain un-diverted in Warm Springs Creek and the Big Lost River in any year that the right holder diverts groundwater under this right. Water rights from the Warm Springs Creek source shall be subject to terms and limitations contained in the Stipulation, Settlement, and Joint Motion for Order filed with the Department on October 12, 1999, in the matter of Application for Permit No. 34-07591, in the name of L & S Partners, numerous other captioned matters, and the Preliminary Order of the Department issued on November 18, 1999. This approval is subject to any future modifications resulting from or required by the terms of that Stipulation, the Preliminary Order of the Department, and the actions taken pursuant thereto. Water will not be diverted from groundwater under this right at such times when an equivalent amount of the surface water rights provided for mitigation is not deliverable. The right holder shall be entitled to cease use of the groundwater right and resume use of the surface water rights upon request in writing to the Water District 34 water master prior to the beginning of the irrigation season. The right holder shall not be entitled to divert from both sources in any year. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and a totalizing meter which displays the instantaneous rate of diversion from the well. Written notice of compliance with this condition shall be submitted to IDWR. If the measuring device or totalizing meter becomes inoperable at any time, diversion of water from the well under this right shall cease. Rights 34-00573B, 34-00583B, 34-00584D, 34-00699C, 34-00700C, 34-00701C, 34-00702B, 34-00702C, 34-00703B, 34-00703C, 34-00704B, 34-00704C, and 34-07595 when combined shall not exceed the irrigation of 269.2 total acres. During any irrigation season that groundwater is diverted under this right, use of water rights 34-00573B, 34-00583B, 34-00584D, 34-00699C, 34-00700C, 34-00701C, 34-00702B, 34-00702C, 34-00703B, 34-00703C, 34-00704B and 34-00704C is limited to a total combined diversion rate of 4.70 cfs.

69578

34-00703B
34-00704B
34-00573B
34-00583B
34-00584D
34-00699B
34-00702B
and portions of
34-00703C
34-00704C
34-00699C
34-00700C
34-00701C
34-00702C
34-00703B
34-00704B
34-00573B
34-00583B
34-00584D
34-00699B
34-00702B
and portions of
34-0070C
34-00704C
34-00699C
34-00700C
34-00701C
34-00702C

During any irrigation season that groundwater is
diverted under this right, use of water rights

34-00573B
34-00583B
34-00584D
34-00699C
34-00700C
34-00701C
34-00702B
34-00702C
34-00703B
34-00703C
34-00704B
34-00704C
div rate = 4.70 cfs.

Condition of permit # 34-7595

Water rights from the Warm Springs Creek
source shall be subject to terms and limitations
contained in the Stipulation, Settlement, and
Joint Motion for Order filed with the Department
on October 12, 1999, in the matter of Application
for Permit No. 34-07591, in the name of L & S
Partners, numerous other captioned matters,
and the Preliminary Order of the Department
issued on November 18, 1999.

The right holder shall not be entitled to divert
from both sources in any year.

34-00573B
34-00583B
34-00584D
34-00699C
34-00700C
34-00701C
34-00702B
34-00702C
34-00703B
34-00703C
34-00704B
34-00704C
34-07595
combined
= 269.2 ac

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-10164 V1

WATER RIGHT NUMBER: 34-10164 V1

Owner TypeName and Address

Current Owner

HERB WHITWORTH JR, STAR RT, MACKAY, ID 83251
(208)588-2820

Priority Date: 06/01/1875

Basis: Decreed

Status: Active

SourceTributary

BIG LOST RIVER

SINKS

Beneficial UseFrom ToDiversion RateAnnual Volume

STOCKWATER

1/01 to 12/31

0.020 CFS

IRRIGATION

5/01 to 10/15

5.200 CFS

Total Diversion: 5.200 CFSLocation of Point(s) of Diversion

BIG LOST RIVER NE1/4NW1/4NW1/4 Sec. 12,Twp 08N,Rge 21E, B.M. CUSTER County

BIG LOST RIVER SE1/4SW1/4SE1/4 Sec. 32,Twp 09N,Rge 22E, B.M. CUSTER 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	
08N 22E 2						31.0	40.0		20.0	37.0	35.0	3.0					166.0
						L 4											
08N 22E 3	39.0	40.0	30.0	29.0	24.0	37.0		30.0					32.0	35.0		35.0	331.0
	L 1	L 2			L 3	L 4											
08N 22E 11						38.0											38.0
09N 22E 33													24.0	2.0	3.0	8.0	37.0
09N 22E 34							23.0	13.0	32.0	40.0	19.0	37.0			32.0	18.0	214.0

Total Acres: 786

Remarks:

- Place of Use USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE THE IRR OF A
- Irrigation COMBINED TOTAL OF 786 ACRES IN A SINGLE IRR SEASON. COMBINED RIGHT NOS.: 34-755, 34-757, 34-758, 34-766, 34-10164, 34-10167, 34-363, 34-364, 34-760, 34-764, 34-10166, 34-10165 THIS RIGHT IS LIMITED TO THE IRR OF 260 ACRES WITHIN THE P/U DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
- Quantity USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 31.44 CFS. COMBINED RIGHTS: 34-755, 34-757, 34-758, 34-766, 34-10164, 34-10167, 34-363, 34-364, 34-760, 34-764, 34-10166, 34-10165
- Point of Diversion WATER IS DELIVERED THROUGH THE LONGHURST DITCH UNTIL ALL THE 1902 OR LATER PRIORITY DATE WATER IS NO LONGER DELIVERED; AFTER THAT WATER IS DELIVERED THROUGH THE CHILLY CANAL.
- Explanatory THIS RIGHT IS A COMBINATION OF OLD RIGHT NO. 34-00754 AND 34-00756.

Comments:

1. CFRITSCH 3/7/1997 COPIED FROM REMARKS

Comment: 0.90 CFS OF 34-00363, 1.6 CFS OF 34-00760, 1.3 CFS OF 34-00764, 2.1 CFS OF 34-00364, 3.2 CFS OF 34-10166 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND THOSE LISTED BELOW. COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165

Dates and Other Information:RateVolumeAcres

Decreed Date:

31.44

786

Combined Use Limits:RateVolumeAcres

31.44

Combined Rights: 34-10167, 34-757, 34-760, 34-764, 34-10166, 34-363, 34-364, 34-755, 34-758, 34-766, 34-10164, 34-10165

Combined Rights: 34-10167, 34-757, 34-760, 34-764, 34-10166, 34-363, 34-364, 34-755, 34-758, 34-766, 34-10164, 34-10165