

2004

Ident. No. TC-29-11

DEPARTMENT OF WATER RESOURCES TEMPORARY CHANGE APPLICATION

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

Name of Applicant Smith Family Partnership Phone 208-648-7384
Post Office Address 2651 Kelly Topaz Rd Bancroft Id 83217

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 Change Irrigation to
stock water from 15 Oct to 15 Nov BECAUSE
NORMAL stock water source is dry.

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
<u>29-2545</u>	<u>12/07/1966</u>	<u>1.75 cfs</u>	<u>stock water</u>	<u>15 Oct to 15 Nov</u>
				to
				to
				to

2. Total amount of water being transferred 1.75 cfs 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	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
		NE	SE	SW	23	7S	38E	Caribou	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	38E	26									X	X							
		27													X	X			

Total Acres _____

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6. General Information:

- a. Who owns the water right to be changed? Applicants
- b. Describe the arrangement allowing use of the right NA
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Will not be irrigated after October 15th
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. used as right is described
- e. Absent the changes, how would the right be used for the remainder of the year? Not used after October 15, 2004
- f. Describe other water rights used for the same purpose.
NA

g. Remarks: This is a temporary change to change the nature of use from irrigation to stockwater from October 15 to November 15. The right will be diverted and then discharged into the Portneuf River which is dry. Need the entire right because of bed loss in the River.

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.

[Signature]
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KW Date 8/25/04 Fee \$ 50⁰⁰
Received KW # E030179 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-29-11

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

Witness my hand this 27th day of August, 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 A)
WATER RIGHT 29-2545)
_____))
_____))

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-29-11

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

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources ("Department") 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 August 25, 2004, Loren Smith dba Smith Family Partnership submitted the attached Temporary Change Application TC-29-11 to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of right no(s). 29-2545 is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

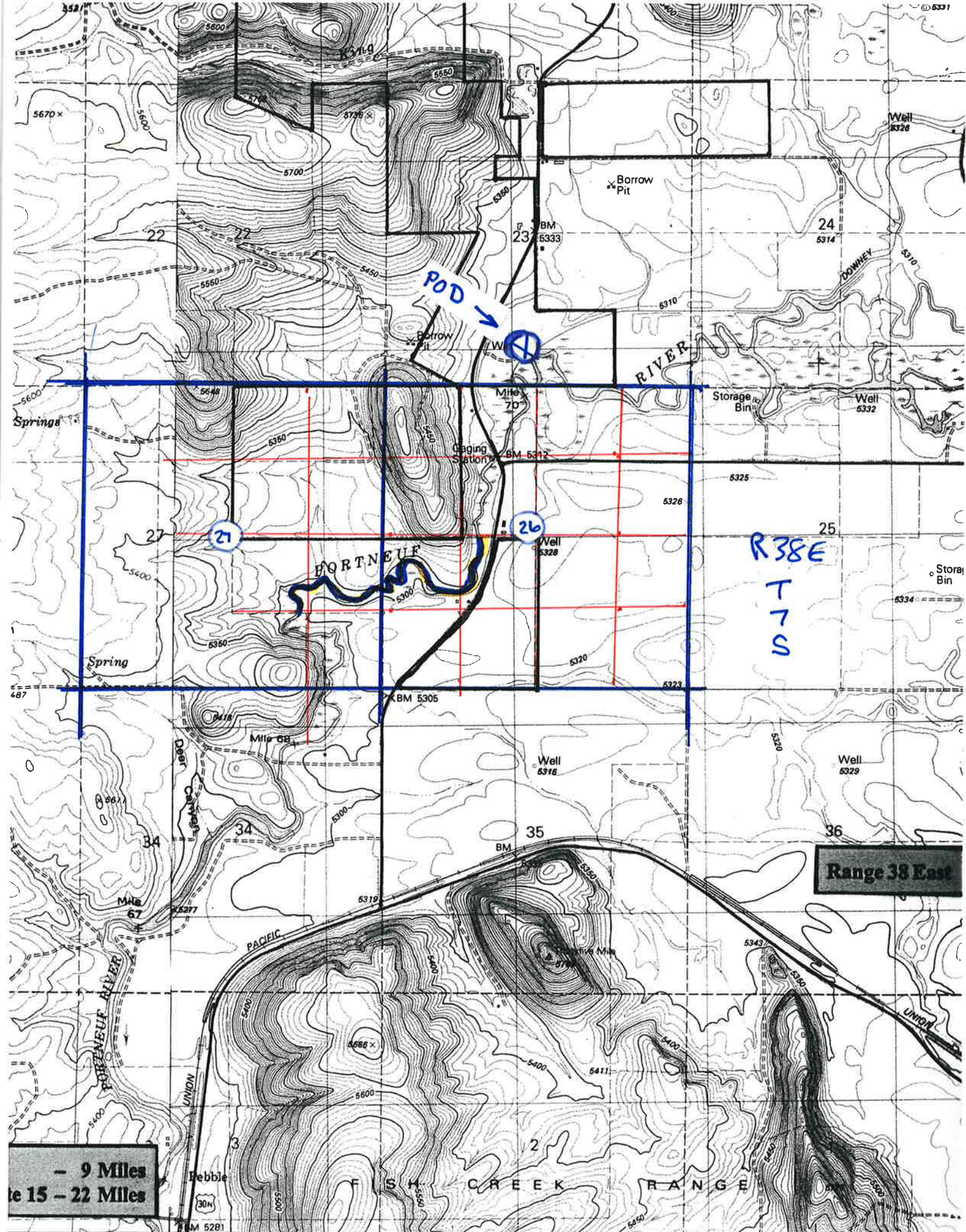
**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-29-11

5. Right(s) 29-2545 are limited to the irrigation of a total of 104 acres in a single irrigation season
6. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.
7. The applicants agree to hold the director and the state of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
8. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 29 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on Nov 15, 2004 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 27th day of August, 2004.


Ronald D. Carlson
Eastern Regional Manager



07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-2545

NAME AND ADDRESS: SMITH RANCH FAMILY PARTNERSHIP
2651 KELLY TOPONCE RD
BANCROFT ID 83217

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.750 CFS
312.00 AFY

PRIORITY DATE: 12/07/1966

POINT OF
DIVERSION: T07S R38E S23 NESESW Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
1.750 CFS
312.00 AFY

PLACE OF USE: IRRIGATION Within CARIBOU County

T07S R38E S23	SESW	36.0	T07S R38E S23	NESW	36.0
T07S R38E S23	NWSW	4.0	T07S R38E S23	SWSW	17.0
T07S R38E S23	SESW	11.0			

104 ACRES TOTAL

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 - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

INFO

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-2545 V1

WATER RIGHT NUMBER: 29-2545 V1

Owner Type Name and Address
 Current Owner SMITH RANCH FAMILY PARTNERSHIP
 2651 KELLY TOPONCE RD
 BANCROFT, ID 83217
 (208)648-7384

Priority Date: 12/07/1966

Basis: License

Status: Active

Source Tributary
 GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	1.750 CFS	312.00 AF
<u>Total Diversion:</u>		1.750 CFS	312.00 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4SE1/4SW1/4 Sec. 23,Twp 07S,Rge 38E, B.M. CARIBOU 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	
07S 38E 23								36.0	36.0	4.0	17.0	11.0					104.0

Total Acres: 104

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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 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.

Remarks:Comments:Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Capey Act Number:

Combined Use Limits:

August 25, 2004

Steve Hebdon
1300 Neibaur Mtn. Rd.
Bancroft, ID 83221

RE: Temporary Change application TC-29-11 in the name of Smith Family Partnership

Dear Steve:

Enclosed is a copy of a proposed temporary change filed by the Smith Family Partnership to change the nature of use from irrigation to stock water. They plan to divert water from their well into the dry bed of the Protneuf River for use as stock water. The period of use will be from October 15 until November 15, 2004.

Please complete the enclosed water master comment sheet and forward to this office. The form can also be faxed to this office.

Your prompt assistance will be appreciated.

Thank you,

Keith C. Wilson
Senior Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

DIRK KEMPTHORNE
Governor

October 26, 2004

KARL J. DREHER
Director

Smith Family Partnership
C/O Loren Smith
2651 Kelly Toponce Rd
Bancroft, ID 83217

Dear Mr. Smith:

Temporary change TC-29-11 was approved on August 27, 2004, authorizing you to divert irrigation license 29-2545 into the Portneuf River channel for stock water uses. This temporary change was accomplished under section 42-222A Idaho Code, which reads in part:

42-222A. (6) Temporary changes shall only be approved...Temporary changes may not be approved to provide water for new projects or to allow expansion of the use of water under existing water rights.

To insure that an enlargement of water use does not occur an equal amount of use needs to be given up, usually in terms of acreage (i.e. give up irrigation for stock water).

It has come to our attention that you are currently irrigating (29-2545) and diverting water into the Portneuf River for stock water (TC-29-11). This is in direct violation of Section 42-222A (6) in that you have expanded water right 29-2545. The chouse is either irrigation or stock water; only one use is authorized.

You are therefore ordered to stop diverting water for either irrigation or stock water uses. Your prompt action will be appreciated.

Thank you,

Keith C. Wilson
Senior Resource Agent

October 26, 2004

Smith Family Partnership
C/O Loren Smith
2651 Kelly Toponce Rd
Bancroft, ID 83217

Dear Mr. Smith:

Temporary change TC-29-11 was approved on August 27, 2004, authorizing you to divert irrigation license 29-2545 into the Portneuf River channel for stock water uses. This temporary change was accomplished under section 42-222A Idaho Code, which reads in part:

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Thank you,

Keith C. Wilson
Senior Resource Agent

12/09

525 7177

Attn. Keith Wilson

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-29-11Applicant's Name: Smith Family Partnership

Watermaster's Recommendation:

a) ☒ 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 22 day of Sept, 2004.Water District No: 29Steven Hebelan
Watermaster's Signature

Use reverse side of page if you need more space.

Wilson, Keith

From: Bird, Cindy
Sent: Thursday, October 28, 2004 11:49 AM
To: Wilson, Keith
Subject: RE: RE: Smith Emergency change

Yes, Mr Smith called be barking that he wasn't irrigating. I explained that the open discharge into the field was doing much more than just providing stockwater into the Portneuf River for his cows. That the field was flooded. According to him all the water reaches the River for his cows.



29-2545_stock.jpg

See attached.

-----Original Message-----

From: Wilson, Keith
Sent: Thursday, October 28, 2004 10:25 AM
To: Bird, Cindy
Subject: RE:RE: Smith Emergency change

Cindy,
Mr Smith called today (10/28/04) said that they stopped irrigating under 27-2545 August 16th? (I have fogotted the date...16th...18th something like that). Thought I'd let you know.

Keith

Cindy,
Yes, 27-2545 is the water right involved in the temporary change. They should not be irrigating.

You can find the temporary change list on "WRTempson 'A006' " under "Tempchanges.xls"

Disable the macros, and look at the list. I don't know if Boise is scanning the actual temp.changes in.

Keith

-----Original Message-----

From: Bird, Cindy
Sent: Monday, October 25, 2004 4:48 PM
To: Wilson, Keith
Subject: Smith Emergency transfer

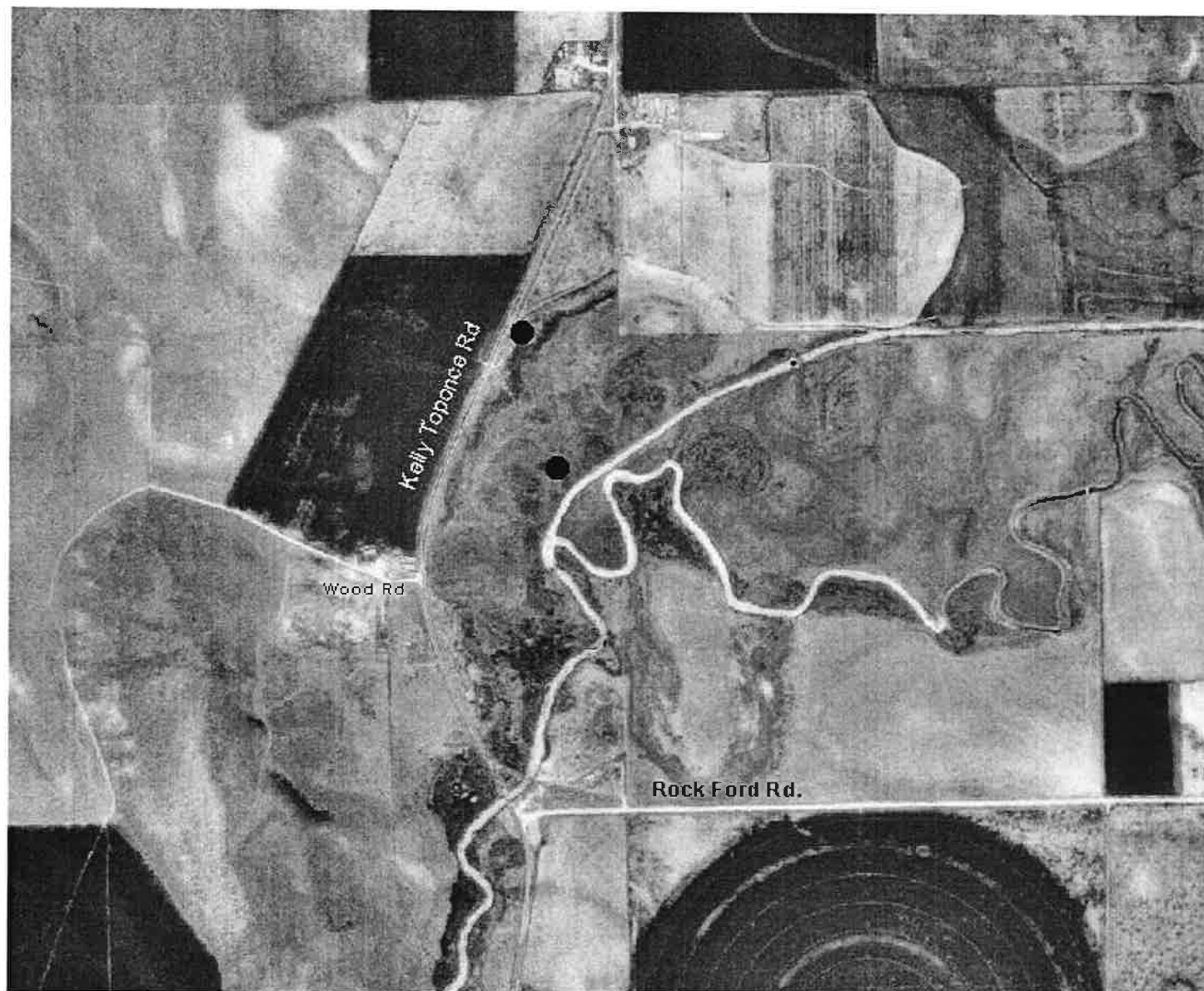
hi Keith,
Is this the right that the Smith's filed the emergency transfer on? Is so, should they still be irrigating also with it?

<< File: 27-2545.RTF >>

In error as saved this as basin 27 instead of basin 29.

Cindy

29-2545



Open discharge
from the two points
on the 1992 Imagery
under the emergency
transfer for Stockwater
in the Portneuf River.

FLBB Bottom Line (dtdb_2001a.cshp)
10/2/2001

