

2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

TC-21-04

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A WATER RIGHT)
21-10890 & 21-10892,)
IN THE NAME OF HESS FARMS c/o RAY HESS)

**ORDER DENYING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Fremont 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 ("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 when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, *Idaho Code*; and

WHEREAS, on July 17, 2002, Hess Farms c/o Ray Hess submitted the attached Temporary Change Application ("Application") 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 rights described on the application.
2. The proposed Temporary Change Application cannot be administered to prevent injury to other water users.
3. The proposed Temporary Change Application cannot be regulated.
4. The rights proposed on the Temporary Change Application are constitutional (Beneficial Use) claims and cannot be delivered by a water master.

DATED this 18th day of July, 2002


RONALD D CARLSON
EASTERN REGION MANAGER

\$50

Ident. No. TC-21-04STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

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

Name of Applicant Hess Farms c/o Ray Hess Phone 208-351-1230-M
652-3644
 Post Office Address 3431 E. 1200 N. Ashton, ID 83420

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 Inject well water into Black Springs,
then North Fork Snake River but withdrawal (credit) out of Fall River
via the Marysville Canal.

Marysville Canal water is short on this place of use + we will use the
water on part of this larger place of use.

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>21-10890</u>	<u>5-10-1950</u>	<u>0.70 cfs</u>	<u>Irrigation</u>	<u>4-01</u> to <u>11-01</u>
<u>21-10892</u>	<u>5-12-1950</u>	<u>0.42 cfs</u>	<u>Irrigation</u>	<u>4-01</u> to <u>11-01</u>

2. Total amount of water being transferred 1.12 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Groundwater tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			SW	SE	34	9N	42E	Prerment	21-10890
			SE	SW	34	9N	42E	Prerment	21-10892
			SW	SE	34	9N	42E	"	Irrigation - No. Fork Snake
Falls River	NW NW		NE	NE	35	9N	44E	"	Rediversion - Marysville Ditch
			NW	NW	2	8N	42E	"	Injection point

5. Lands irrigated or place of use:

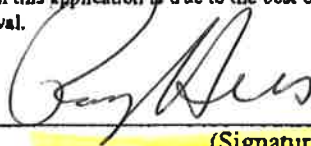
Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9N	42E	18												20.1					
		24							35										

Total Acres 55.1

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right _____
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Land will be diked up
- d. Has the water right sought to be transferred been used this year? ~~YES~~ NO If yes, explain _____
- e. Absent the changes, how would the right be used for the remainder of the year? _____
- f. Describe other water rights used for the same purpose.
Marysville Canal Water
- g. Remarks: _____

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 of applicant)

FOR DEPARTMENT USE ONLY

Received by HWT Date 7-17-02 Fee 50.00Receipted 7-17-02 # E027973 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. _____

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

Witness my hand this _____ day of _____, _____.

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 21-10890

WATER RIGHT NUMBER: 21-10890

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HESS FARMS INC RT 2 3400 E 959 N ASHTON, ID 83420 (208)652-7359

Priority Date: 05/10/1950

Basis: **Beneficial Use**

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	4/01 to 11/01	0.700 CFS	

Total Diversion: 0.700 CFSLocation of Point(s) of Diversion

GROUND WATER

SW1/4SE1/4

Sec. 34, Twp 09N, Rge 42E, B.M.

FREMONT 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	
09N 42E 34												35.1					35.1

Total Acres: 35.1

Conditions of Approval:Remarks:Comments:Dates and Other Information:

Claim Received Date: 3/17/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 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:
 Carey Act Number:
 Mitigation Plan: False

TC-21-04

Page 1

07/17/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 21-10892

WATER RIGHT NUMBER: 21-10892

Owner Type Name and Address
 Current Owner HESS FARMS INC
 RT 2
 3400 E 959 N
 ASHTON, ID 83420
 (208)652-7359

Priority Date: 05/12/1950

Basis: **Beneficial Use**

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	4/01 to 11/01	0.420 CFS	
	<u>Total Diversion:</u>	0.420 CFS	

Location of Point(s) of Diversion

GROUND WATER SE1/4SW1/4 Sec. 34, Twp 09N, Rge 42E, B.M.
 FREMONT 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	
09N	42E	34															20.0		20.0

Total Acres: 20

Conditions of Approval:Remarks:Comments:Dates and Other Information:

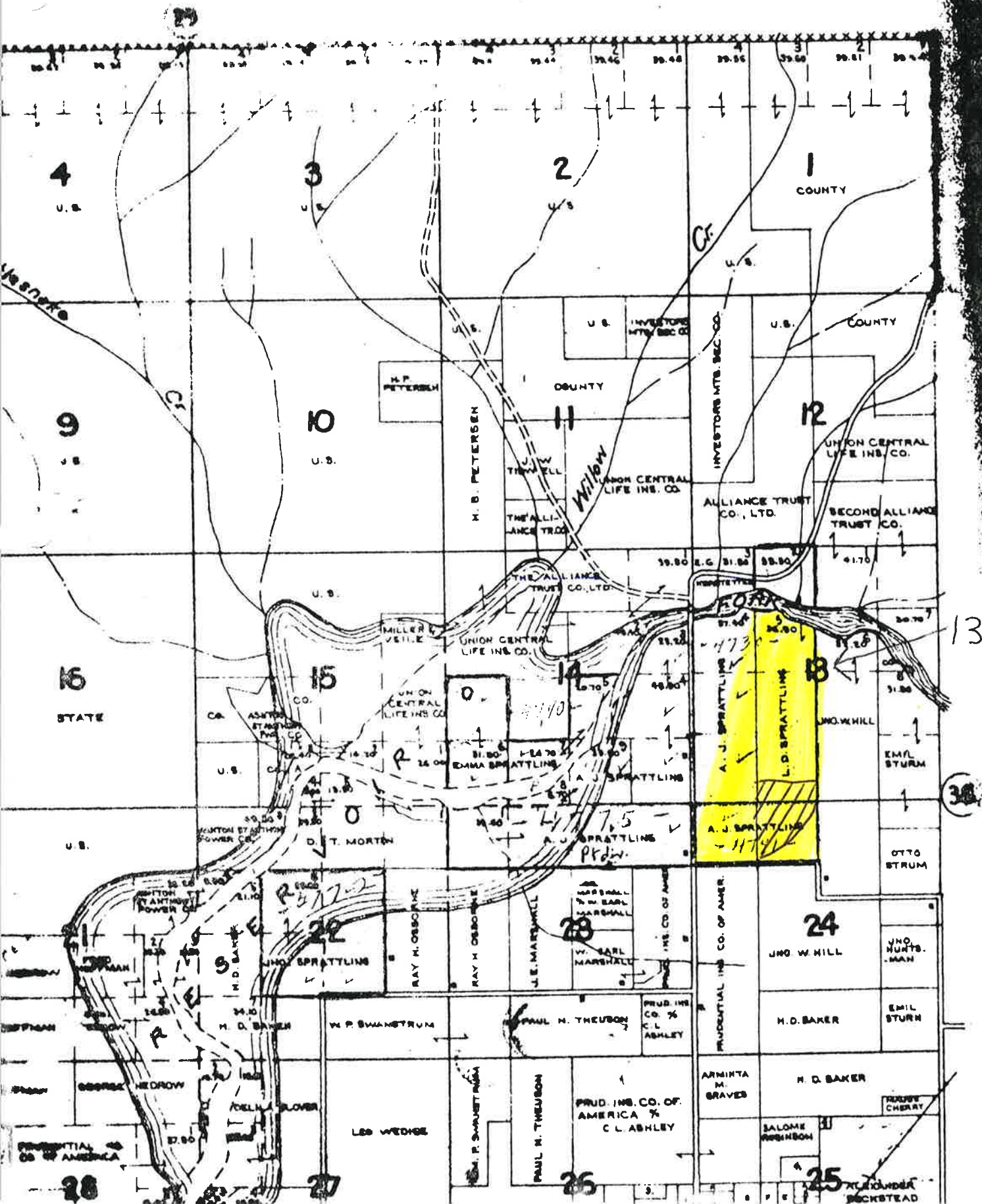
Claim Received Date: 3/17/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Lic 21-2119 35ac
 SWSE

was Not Filed on

21-2119

WYOMING 9 N RANGE 42 E. B. M.
COUNTY IDAHO



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 21-2119

WATER RIGHT NUMBER: 21-2119

Owner Type Name and AddressCurrent Owner H E HESS
ASHTON, ID

Priority Date: 03/21/1961

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	4/01 to 10/31	0.490 CFS	103.80 AF
<u>Total Diversion:</u>		0.490 CFS	103.80 AF

Location of Point(s) of DiversionGROUND WATER SW1/4SE1/4 Sec. 34, Twp 09N, Rge 42E, B.M.
FREMONT CountyPlace 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	
09N	42E	34															35.0		35.0

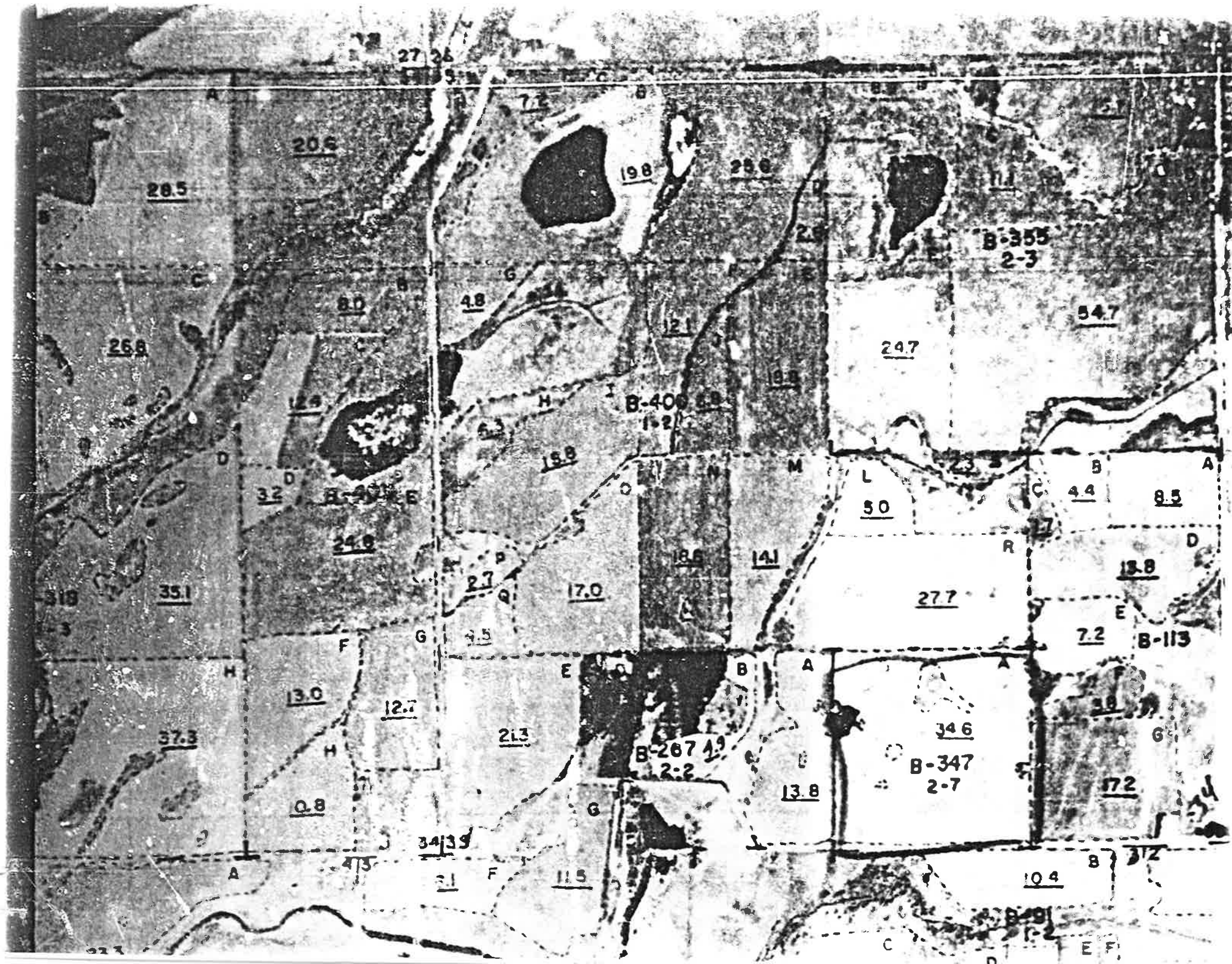
Total Acres: 35

Conditions of Approval:Remarks:

- General AC. IRR.=34.6.

Comments:Dates and Other Information:

Licensed Date: 7/25/1979
 Decreed Date:
 Water Supply Bank Enrollment Accepted:
 Water Supply Bank Enrollment Removed:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Formal Action 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



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 21-2118

WATER RIGHT NUMBER: 21-2118

Owner Type Name and Address
 Current Owner H E HESS
 ASHTON, ID

Priority Date: 03/21/1961

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	4/01 to 10/31	0.310 CFS	71.70 AF
<u>Total Diversion:</u>		0.310 CFS	71.70 AF

Location of Point(s) of Diversion

GROUND WATER SE1/4SW1/4 Sec. 35, Twp 09N, Rge 42E, B.M.
 FREMONT 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	
09N	42E	35												24.0					24.0

Total Acres: 24

Conditions of Approval:Remarks:

- General AC. IRR.=23.9.

Comments:Dates and Other Information:

Licensed Date: 7/25/1979
 Decreed Date:
 Water Supply Bank Enrollment Accepted:
 Water Supply Bank Enrollment Removed:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Formal Action 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:

