

Transfer No. 2581

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

Name of applicant Bolton Ranch Inc. Phone 756-3675
Post Office address Route #1, Box 14, Salmon, ID 83467

A. DESCRIPTION OF RIGHT AS RECORDED**1. Right evidenced by:**

- a. Decree No. 74-2200 Decreed to William T. Bramlette &/or Wilma A. Bramlette
(Name)
in case of Proposed Finding of Water Rights vs in the Lemhi River Basin
Case No. 4948
dated in _____ in 7th Judicial District county of Lemhi
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant
purchased property.

3. Source of water Geertson Creek tributary to Lemhi River

4. Date of priority 3/30/1916

5. Water is used for the following purposes:

amount 3.1 cfs for irrigation purposes from April 1 to Nov. 1
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 3.1 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 9
Township 21N Range 23E, B.M., in Lemhi County

Additional points of diversion, if any Lot 1, Sec. 4, Twp. 21N, Rge. 23E

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
21N	23E	9									38.9	6	27.2	37.5					109.7

Total number of acres to be irrigated 109.7

9. Describe any other water rights used for the same purpose as described above none

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? no

If yes, describe in item D. REMARKS

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum

Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted 3.10 c.f.s. &/or _____ acre feet
b. Description of diverting works 12" diameter metal headgate, open ditches.

- c. Describe the reasons for the proposed changes Location of diversion had to be changed to facilitate operation of sprinkler system.

2. Change in point of diversion

Point of diversion SW ¼ NE ¼, Section 9 Township 21N
Range 23E, B.M., Lemhi County
Additional points Lot #1, Sec. 4; NW¼SE¼, Sec. 9; Twp. 21N, Rge. 23E

3. Change in place of use

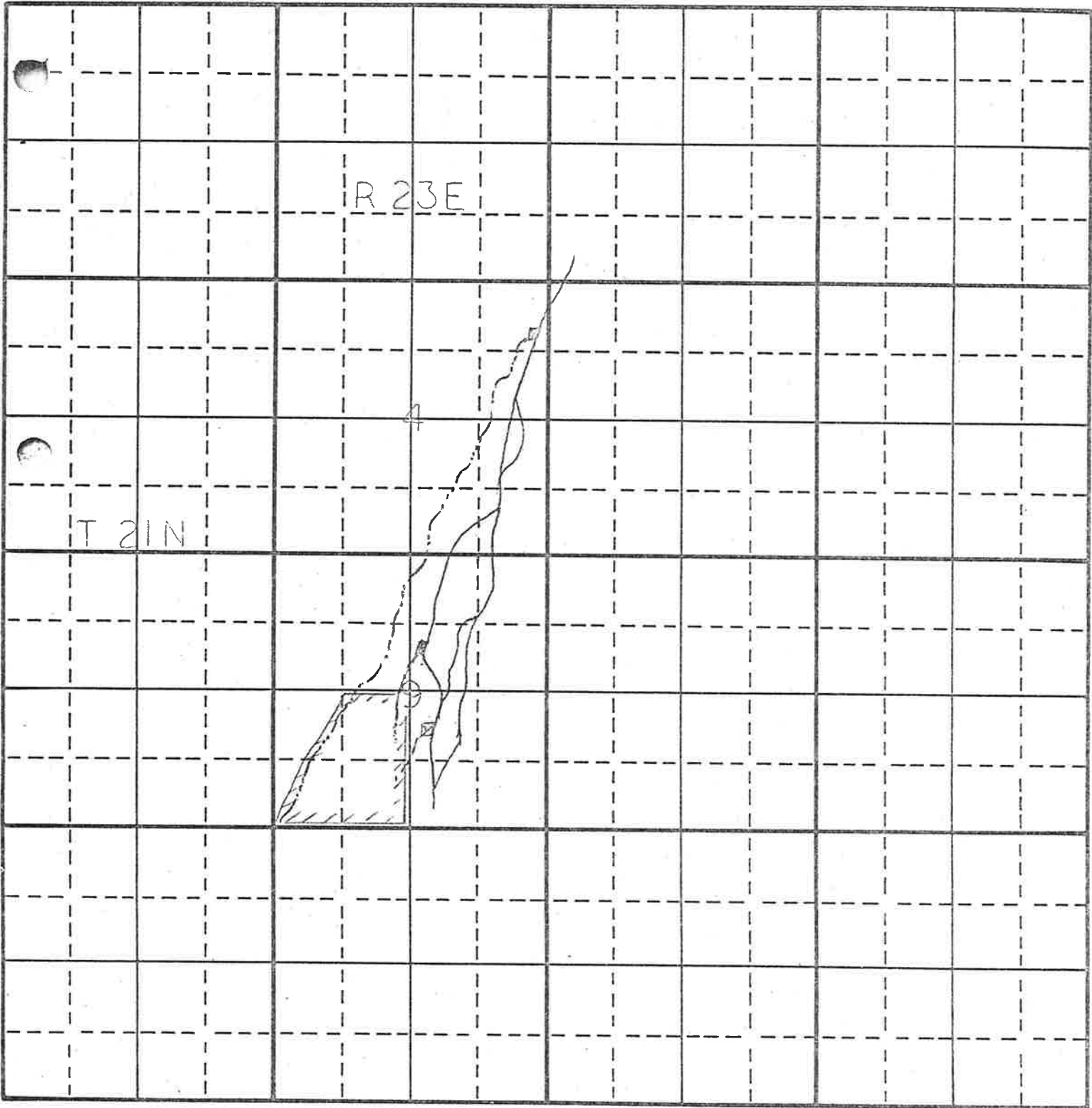
- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No XX. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer no change

c. Describe the lands or place of use to which the right will be transferred:
no change

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

4. Describe any other water rights used for the same purpose as described above. none
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

I hereby 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 willfull misrepresentations made in this application may result in voiding its approval.

X Samuel D. Taylor UP Man
Belton Road (Signature of Applicant)

Subscribed and sworn to before me this 30 day of June, 19 81

Elaine Burch
(Notary Public)

My commission expires 12-21-82

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 74-2200
and said application is hereby APPROVED, subject to the following limitations and conditions:
PURSUANT TO ORDER ISSUING PROPOSED DECISION AND ORDER ADOPTING PROPOSED MEMORANDUM
DECISION AND ORDER

Witness my hand this 9th day of January, 19 83

for the Norman C Young
Director

FOR DEPARTMENT USE ONLY

Received by <u>KW</u>	Date <u>7/1/81</u>	Protest filed by <u>Virginia Olson</u>
Prelim. check by <u>HWT</u>	Fee <u>50⁰⁰</u>	<u>Urdell Olson</u>
Receipted by <u>KW</u>	Date <u>7/7/81</u>	# <u>17779</u>
Published in <u>Recorder-Herald</u>	Copies of protest forwarded by <u>KW</u>	
Pub. dates <u>7/16 & 7/23/81</u>	Hearing held by _____ Date _____	
Watermaster recommendation requested on _____	Recommended for <u>approval</u> denial	
_____ rec'd. _____	by <u>ENC</u>	

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF
APPLICATION FOR TRANSFER OF WATER RIGHT NO.
74-2200 IN THE NAME OF BOLTON RANCH, INC.

PROPOSED
MEMORANDUM DECISION
AND ORDER

On July 1, 1981, Bolton Ranch, Inc. applied to the Idaho Department of Water Resources to change the points of diversion for licensed water right No. 74-2200 with no requested change in the place of use. This right is included in the Proposed Finding of Water Rights in the Lemhi River Basin, Case 4948 in the Seventh Judicial District Court, Lemhi County. The application proposes to retain the diversion in Lot 1, Sec. 4, Twp. 21N, Rge. 23E B.M., delete the diversion in the NW1/4NE1/4, Sec. 9 and add two new points of diversion in the SW1/4NE1/4, NW1/4SE1/4, Sec. 9, Twp. 21N, Rge. 23E B.M., Lemhi County.

Notice of the application was published in the Recorder Herald, Salmon, Idaho on July 16 and 23, 1981 and subsequently protested on August 3, 1981 by Vergil O. Olson and Verdell Olson. The protestants cited the following issues as their reasons for their objection to this change.

1. The applicant has not obtained a permit to change the point of diversion to the new point of diversion.
2. Granting the new point of diversion will adversely affect other water rights diverted from Geertson Creek.

On October 29, 1981, the Department conducted a combined hearing in this matter and on protested application for transfer of water right Nos. 74-0006, 74-0007, 74-0918 and 74-2272 at the Lemhi County Courthouse, Salmon, Idaho. The protestants, Vergil and Verdell Olson, were present and represented themselves. The applicant was represented by Dave Logan, vice-president and manager of Bolton Ranch, Inc. and Sherman F. Furey, Jr., attorney at law. Also present were Neil Ankrum, watermaster of Water District No. 74-A and Stephanie Brady from the Bureau of Land Management.

Department records list William T. Bramlette as the holder of water right No. 74-2200. Mr. Bramlette's property was recently acquired by Bolton Ranch, Inc. In explaining the reason for making the application for transfer, Dave Logan, manager of Bolton Ranch indicated two new points of diversion would be established. These would be used along with the existing diversion in Lot 1,

Sec. 4, Twp. 21N, Rge. 23E. He testified the new points of diversion in the SW1/4NE1/4, NW1/4SE1/4, Sec. 9, Twp. 21N, Rge. 23E would divert water from what he understood were two recognized natural channels of Geertson Creek. These channels branch off of Geertson Creek within the SE1/4SE1/4, Sec. 4; NW1/4NE1/4, Sec. 9, Twp. 21N, Rge. 23E.

Neil Ankrum, watermaster on Geertson Creek since 1975 testified that in his opinion the requested change would not adversely affect the protestants' water rights.

Vergil Olson testified his primary concern was proper administration of the stream. He testified that in the past, Mr. Logan had regulated his own diversions; thus, adversely affecting downstream rights.

According to the testimony of Verdell Olson, the side channels on which the new points of diversion will be located, are not natural channels of Geertson Creek and should not be recognized as such.

Affidavits filed with the Idaho Department of Water Resources on July 3, 1973 in connection with the adjudication of the Lemhi River and tributaries, by Parley A. Arave, Herb Aldous, Clyde G. Starr, Anthony Santos, Bill Bolton, LaVar Prestwich, and Lyman A. Arave designate the side channel branching from the creek in the N1/2NE1/4, Sec. 9, Twp. 21N, Rge. 23E as a tributary of Geertson Creek. A map attached to each affidavit identifies the channel as it flows through the SW1/4NE1/4, Sec. 9 and then back into the creek within the NW1/4SE1/4 of said section. This coincides with the channel shown on the application beginning in the southeast corner of the NW1/4NE1/4, Sec. 9, Twp. 21N, Rge. 23E.

The heading for the upper side channel illustrated on the application is the SE1/4SE1/4, Sec. 4, Twp. 21N, Rge. 23E. This same 40 acre subdivision is also a point of diversion for water right Nos. 74-0007, 74-0619, and 74-0918 as listed in the Stipulation to the Proposed Finding of Water Rights in the Lemhi River Basin for Geertson Creek. The map accompanying each of the July 3, 1973 affidavits shows a diversion structure at the heading of this ditch that is very similar to the one followed by the upper side channel on the application. The ditch, however, terminates in the SE1/4SW1/4, Sec. 9, Twp. 21N, Rge. 23E rather than returning to the creek as indicated on the application.

Based upon testimony obtained at the hearing and the Hearing Examiner's understanding of the law, the following Findings of Fact, Conclusions of Law, and Order are hereby proposed.

Review of Evidence

Department records considered

1. Application for transfer of water right No. 74-2200 receipted July 1, 1981.
2. Affidavit of publication of Notice of Application for Transfer received July 24, 1981.
3. Letters of protest from Vergil O. Olson and Verdell Olson received August 3, 1981.
4. Stipulation for Geertson Creek to the Proposed Findings of Water Rights in the Lemhi River Basin, Civil Case No. 4948 in the Seventh Judicial District Court in Lemhi County.
5. Affidavits from Parley A. Arave, Herb Aldous, Clyde G. Starr, Anthony Santos, Bill Bolton, LaVar Prestwich, and Lyman A. Arave dated July 3, 1973.

FINDINGS OF FACT

1. The applicant wishes to divert water from Geertson Creek at points different from those shown on the original license and in the Geertson Creek Stipulation to the Proposed Finding of Water Rights in the Lemhi River Basin.
2. Geertson Creek is within the boundaries of State Water District No. 74-A.
3. There will be no change in the licensed place of use for right No. 74-2200.
4. Testimony by Neil Ankrum, watermaster, indicated he did not expect the transfer to adversely affect downstream diversions.
5. Protestant, Vergil Olson, stated if the applicant was delivered only the water he is entitled to under his water right, there would be no injury.
6. The channel leaving Geertson Creek in the southeast corner of the NW1/4NE1/4, Sec. 9, Twp. 21N, Rge. 23E and flowing back into the creek in the NW1/4SE1/4 of said section is a recognized channel of Geertson Creek and the point of diversion proposed for the NW1/4SE1/4, Sec. 9, Twp. 21N, Rge. 23E will divert water from that channel of Geertson Creek.
7. The channel heading in the SE1/4SE1/4, Sec. 4, Twp. 21N, Rge. 23E is a ditch used for the conveyance of water under water rights No. 74-0007, 74-0619 and 74-0918 and the point of diversion proposed for the SW1/4NE1/4, Sec. 9, Twp. 21N, Rge. 23E would be from that ditch below the established heading.

CONCLUSIONS OF LAW

1. Relocating the points of diversion without changing the place of use is not an enlargement of water right No. 74-2200.
2. Proper administration by the watermaster will prevent injury to other water rights in Water District No. 74-A, Geertson Creek.
3. The watermaster has no authority to distribute water from a ditch after it has been regulated at the heading.
4. The diversion of water at the heading of the ditch in the SE1/4SE1/4, Sec. 4, Twp. 21N, Rge. 23E will not be different in its effect on other rights than the proposed diversion of water downstream on the ditch at the point in the SW1/4NE1/4, Sec. 9, Twp. 21N, Rge. 23E.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Transfer of Water Right No. 74-2200 be and is APPROVED in part subject to the following conditions:

1. The points of diversion to be established by this transfer are: a) located on the west bank of Geertson Creek in Lot 1 (NE1/4NE1/4), Sec. 4, Twp. 21N, Rge. 23E); b) located in the NW1/4SE1/4, Sec. 9, Twp. 21N, Rge. 23E on the west bank of a natural channel to Geertson Creek, said channel branching from the creek in the southeast corner of the NW1/4NE1/4, Sec. 9 and flowing back into the creek in the NW1/4SE1/4, Sec. 9 all in Twp. 21N, Rge. 23E, and c) located in the SE1/4SE1/4, Sec. 4, Twp. 21N, Rge. 23E on the west bank of Geertson Creek.

2. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works at each approved point of diversion prior to diversion of water under this approval.

3. Use of water under this transfer is subject to the control of the watermaster of Water District No. 74-A, Geertson Creek.

Dated this 23 day of July, 1982.



BOBBY D. FLEENOR

HEARING OFFICER

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

IN THE MATTER OF PROTEST AGAINST APPROVAL OF)
APPLICATION FOR TRANSFER OF WATER RIGHT NO.)
74-2200 IN THE NAME OF BOLTON RANCHES, INC.)

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties on July 28, 1982, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 9TH day of February, 1983.




A. KENNETH DUNN
Director

RECEIVED

FEB 16 1983

Department of Water Resources
Eastern District Office

January 4, 1982

Sherman F. Furey, Jr.
FUREY & FUREY
P. O. Box 1127
Salmon, ID 83467

Dear Sherm:

Re: Application for Right No. 74-2200 (Bolton Ranches, Inc.)

This office received your letter of December 13, 1982 clarifying the exceptions you previously filed to the proposed decision in the above-referenced matter. We are now in agreement that the channel in question is a ditch. Based on this agreement, we will soon issue a final decision on the application for a change of water right No. 74-2200.

With respect to the past domestic use from Geertson Creek referred to in your letter, a search of water rights in the proposed finding (Green Book) turned up water right No. 74-0618 on page 197. This right is for year-around domestic use for three homes from springs located in SWNE, Sec. 9, Twp. 21N, Rge. 23E, B.M. We would point out that this right exists since it was not in contention during discussions of the Geertson Creek stipulation and may have been overlooked as a solution to the domestic use problem.

The only other solution we see to the domestic use concern you expressed would be to change the nature of use of one of the existing Bolton water rights to a domestic or stockwater use. Such a proposed change, however, could only be approved if, in fact, there were a change from one use to another, not simply the addition of use to an existing right.

If I can be of further assistance, please contact us.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Office Bureau

BDF:rf

FUREY & FUREY

ATTORNEYS AT LAW

116 N. CENTER STREET, P. O. BOX 1127

SALMON, IDAHO 83467

SHERMAN F. FUREY, JR.
SHERMAN F. FUREY, III

RECEIVED

DEC 24 1982

Logan (208) 756-7572 Resources
(208) 756-4655

December 13, 1982

Mr. Bobby D. Fleenor
Chief, Regional Offices Bureau
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Application for transfer of Right No. 74-2200
Bolton Ranches, Inc.

Dear Bob:

This will respond to your letter of December 6, 1982.

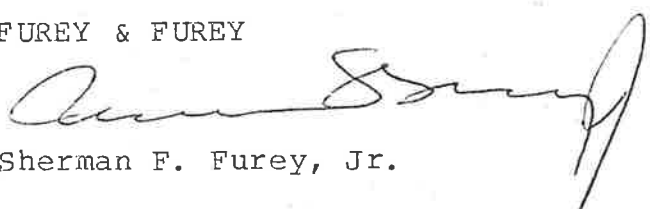
Where your file indicates that the channel is a ditch rather than a natural channel Bolton Ranch, Inc., will agree with your interpretation.

However, this concession does create a potentially serious problem for Bolton Ranches. This ditch has historically been treated as a natural channel of Geertson Creek and this has been true since the original Bolton homestead was taken up in 1881. This ditch has been the source of the domestic water supply for homes on the Bolton Ranches through all the years since 1881 and it is the potential loss of this source that is causing my clients considerable concern now. The ditch also flows through five different Bolton corrals below the Bolton homes and then return flows into Geertson Creek. Mr. Logan tells me that the flow into the diversion from Geertson Creek and the return flow lower down below the Bolton Ranches was measured some years ago by Mr. Loy Johnson of your department and it was determined at that time that the return flow was greater than the diverted flow.

In any event, the Boltons would certainly appreciate anything that can be done to insure that at all times during the year there will be a sufficient continuous flow in this ditch to supply the domestic needs of the Bolton homes. Mr. Logan estimates that this would require a minimum of 1 to 1.5 cfs. He states that the usual minimum flow through this stream through all the years has been between 2 and 2.5 cfs.

Sincerely yours,

FUREY & FUREY


Sherman F. Furey, Jr.

SFF:ga