

T1985 CANYON CREEK CANAL

Transfer No. 1985

Application No. 22-0195/22-0196

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

APPROVED

Name of applicant Canyon Creek Canal Co. Phone 458-4231 (Grant)
458-4282 (Wally)
Post office address Newdale, Idaho (c/o Wally Little, Chairman)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
- a. Decree to Canyon Creek Canal and Irrigation, Co. (Name)
in case of Rexburg Irrigation Co. et alvs Teton Irrigation Canal Co. et al
dated 12-16-1910 in Sixth Judicial Court County of Fremont (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
3. Source of water Canyon Creek tributary to Teton River
4. Date of priority 22-0195 - 6/1/1900 22-0196 - 6/1/1902
5. Water is used for the following purposes:
- | | | |
|---------|-----------------------------------|--------------------------------|
| 22-0195 | amount 16.0 c.f.s. for irrigation | purposes from Apr. 1 to Nov. 1 |
| 22-0196 | amount 54.0 c.f.s. for irrigation | purposes from Apr. 1 to Nov. 1 |
| | amount for | purposes from to |
- (month/day - both dates inclusive)
6. Total amount of water under right: a. 70.0 cubic feet per second
&/or
b. acre feet per annum
7. Location of original point of diversion is Lot 4 1/4 of 1/4 of Section 6
Township 5N Range 43E., B.M., in Madison County
Additional points of diversion, if any

8. Lands irrigated or 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	
			AS PER ORIGINAL DECREE: LANDS OF STOCKHOLDERS OF SAID COMPANY SITUATED IN T. 5N., R. 43E., B.M., T. 6N., R. 41E., B.M., T. 6N., R. 42E., B.M., AND IN T. 7N., R. 41E., B.M., AGGREGATING OVER 10,000 ACRES, DESCRIBED ON THE ATTACHED LIST AND LISTED SPECIFICALLY HERE AND IN C.2 FOR CLARIFICATION AND TO IDENTIFY THE LANDS NOT SPECIFICALLY LISTED IN THE DECREE WITH ANY CHANGES HERETOFORE OR NOW BEING MADE.																

(see attachment)
Total number of acres to be irrigated 10,615

[illegible]

B. DESCRIPTION OF PORTION OF RIGHT FOR WHICH THE CHANGE IS REQUESTED (If the entire right is requested changed, omit part B)

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. Place of use:

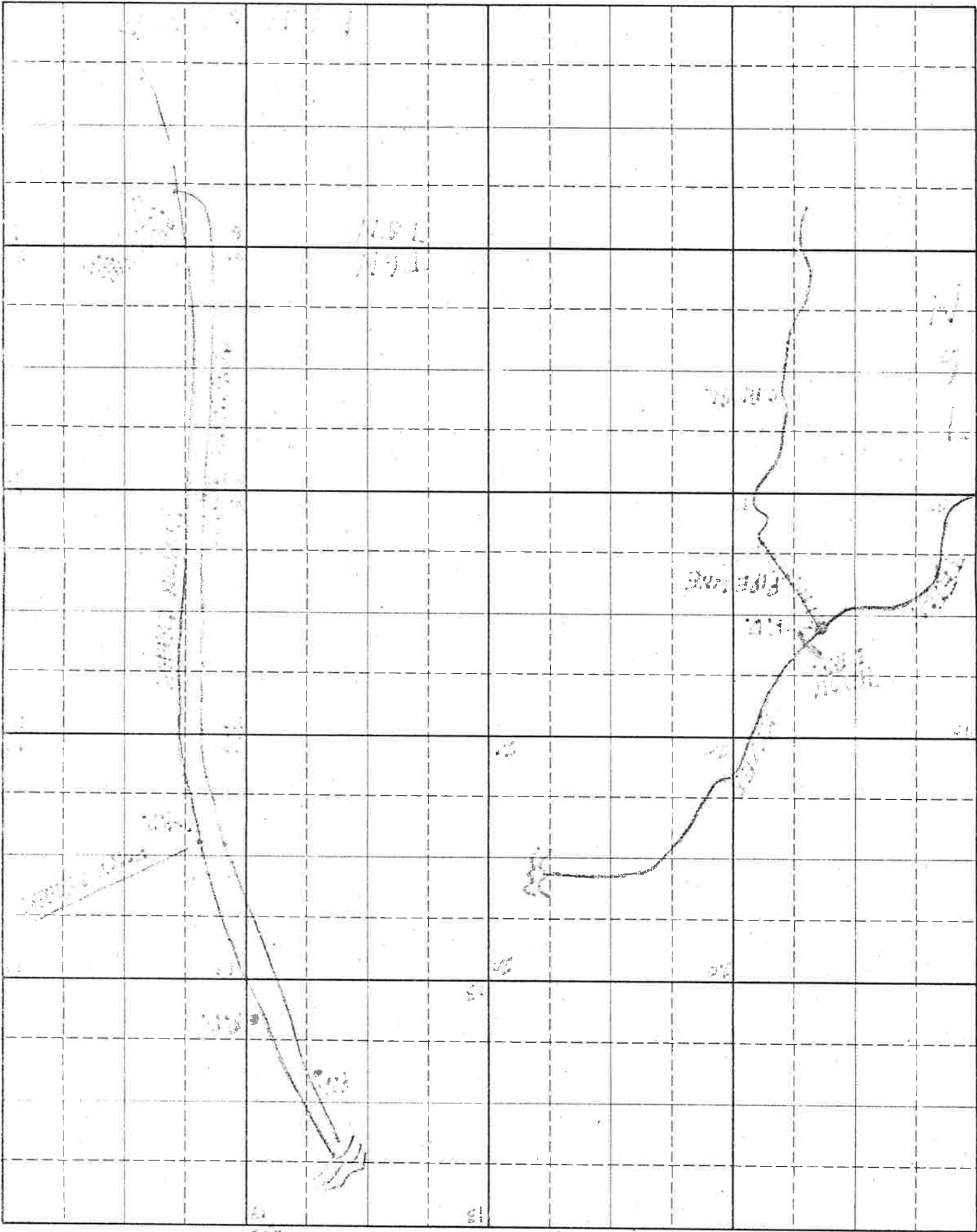
TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

1. Change in point of diversion
- a. Amount of water to be diverted 70.0 'c.f.s. &/or _____ acre feet
- b. Point(s) of diversion Lot 4 ¼ _____ ¼, Section 6 Township 5N
Range 43 E., B.M., Madison County
Additional points NW¼SE¼, Sec. 13, T. 6N, R. 42E; SE¼SE¼, Sec. 13, T. 6N, R. 42E; SW¼NE¼, Sec. 30, Twp. 7 N, R. 42 E; NW¼SW¼, Sec. 19, T. 6N, R. 43E;
- c. Description of diverting works New points of diversion will be pumps & motors and pipelines and new canals and ditches.
- d. Describe the reasons for applying for a change in the point(s) of diversion As the spring river flows decrease, the head reduces and it becomes difficult to fill our decreed right at the original point of diversion. The new point of diversion will pump water from Canyon Creek into our canal and/or directly onto lands of stockholders of the corporation.
2. Change in place of use
- a. 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	

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



b. 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.

3. Remarks _____

I hereby assert that no one will be injured by such change and 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.

Canyon Creek Canal Co.
Blair Robinson - Sec.
(Signature of applicant)

Subscribed and sworn to before me this 30th day of April, 19 76

Lay W. Higby
(Notary public)
Reynolds, Idaho

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0195/22-0196, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

PURSUANT TO MEMORANDUM DECISION AND ORDER OF THIS DATE

2. Denial of said application is for the following reasons: _____

Witness my hand this 30th day of December, 19 76

R. Keith Higginson
R. KEITH HIGGINSON, Director

FOR DEPARTMENT USE ONLY

Received by DW Date 5-04-76

Prelim. check by W Fee \$30.00

Receipted by DW Date 5-06-76

Published in Reynolds Journal #15746

Pub. dates May 13 & 20, 1976

Watermaster recommendation requested on 5-07-76

1-D #01 rec'd. _____

Protest filed by _____

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Recommended for _____ approval _____ denial
by _____

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

IN THE MATTER OF:

Application for Transfer of Water Right
No. 22-0195/22-0196 in the name of
CANYON CREEK CANAL COMPANY

MEMORANDUM DECISION
AND ORDER

The Canyon Creek Canal Company holds decreed water rights from Canyon Creek for 16.0 cubic feet per second with priority of June 1, 1900, and 54.0 cubic feet per second with priority of June 1, 1902. The decree is silent as to the point of diversion, but these rights have historically been diverted at the Canyon Creek Canal heading which is located within Lot 4, Sec. 6, Twp. 5 N, Rge. 43 E, B.M., Madison County. The decree describes the lands irrigated by these rights as follows:

"Lands of stockholders of said company, situated in Township 5 North, Range 43 E., B.M., T. 6, N., R. 41 E., B.M., T. 6 N., R. 42 E. B.M., and in T. 7 N. R. 41 E., B.M., aggregating over 10,000 acres."

On April 6, 1976, the Canyon Creek Canal Company applied to the Department of Water Resources for a water right transfer which would add three additional points of diversion on Canyon Creek, downstream from the existing canal heading, and one proposed point of diversion on the Teton River. Notice of this application was published in the Rexburg Journal on May 13 and May 20, 1976.

The Director of the Department of Water Resources has reviewed the application and other files of the Department, and based upon his understanding of the law, makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

- 1) Assessment records indicate water users pay Canyon Creek Canal Company assessments on a total of only 1,385 acres of land.
- 2) Records of the Fremont-Madison Irrigation District indicate that as much as 2,547 acres may have been irrigated with water diverted from the Canyon Creek Canal.
- 3) The application for transfer describes lands claimed to have a water right from Canyon Creek totaling 10,615 acres.

4) Section 42-222, Idaho Code, provides that, "The Director of the Department of Water Resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby and the change does not constitute an enlargement in use of the original right."

5) There are several intervening rights to divert water from Canyon Creek downstream from the Canal Company's present point of diversion.

CONCLUSIONS OF LAW

1) The decreed water rights of the Canyon Creek Canal Company entitle it to divert up to 70.0 cubic feet per second from Canyon Creek if available under its priorities to irrigate "over 10,000 acres of land". While it is questionable that that much land has ever previously been irrigated due to availability of water supply and former surface methods of irrigation, the decreed right so provides.

2) Other water right holders who divert water from Canyon Creek under priorities subsequent to the Canyon Creek Canal Company rights are entitled to protection of their diversion and use of water under conditions which existed as their subsequent rights were established.

ORDER

IT IS, THEREFORE, ORDERED and Application for Transfer of Water Right No. 22-0195/22-0196 is hereby APPROVED subject to the following conditions:

1) The applicant shall install a permanent measuring device in Canyon Creek at the applicant's present point of diversion, in the Canyon Creek Canal, and at each new point of diversion.

2) No more water may be diverted from Canyon Creek and the Teton River under these rights than is actually available and could have been diverted by the Canal Company at its original point of diversion as demonstrated by the record of the measuring devices required in paragraph 1) above.

3) This approval is subject to all prior and intervening water rights which would otherwise be injured by such approval.

4) No more water may be diverted under this approval than the amount heretofore required to irrigate lands served by the Canyon Creek Canal Company.

Dated this 30th day of December, 1976.


R. KEITH HIGGINSON
Director

W.D #01



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

January 5, 1977

RECEIVED

JAN 10 1977

Department of Water Resources
Eastern District Office

Re: Transfer No. 1985

Canyon Creek Canal Company
c/o Wally Little, Chairman
Newdale, Idaho 83436

Gentlemen:

Enclosed herewith is a copy of your approved Application for Transfer 22-0195/22-0196 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the Order.

Be sure to note condition of approval 1) which requires the installation of measuring devices. Enclosed is a letter describing different types of measuring devices accepted by the Director.

Should you have questions regarding the transfer, please do not hesitate to contact us.

Sincerely,

Bobby D. Fleenor

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR
Enclosures

cc: IDWR - Idaho Falls

