

APR 6 1987
Department of Water Resources
Eastern District Office

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

Dated this 30th day of March, 1987.

A. KENNETH DUNN
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 2122 OF WATER RIGHT NOS.)
22-0422/0596/0471/0205/0477/0344/)
0235/0236/0206/0595/0345 IN THE)
NAME OF GORDON D. WRIGHT)
_____)

SOURCE: TETON RIVER
COUNTY: MADISON

PROPOSED MEMORANDUM DECISION AND ORDER

This matter is before the Department of Water Resources as a result of a review of unprotested Application for Transfer No. 2122 of the above captioned water rights.

FINDINGS OF FACT

1. On June 22, 1977, Gordon Wright filed an application with the Department of Water Resources to transfer the point of diversion for his portion of water he received as a shareholder in Woodmansee-Johnson Rexburg Mill Ditch Company. The application proposed to change water right Nos. 22-0422/0596/0471/0205/0477/0344/0235/0236/0206/0595/0345 decreed to the Woodmansee-Johnson Rexburg Mill Ditch Company in the case of Rexburg Irrigation Company, et al vs. Teton Irrigation Canal Company, et al, dated December 16, 1910. The application is identified as transfer No. 2122 in the department's records.

2. The application was researched by the department staff and it was determined that several rights held by Woodmansee-Johnson Rexburg Mill Ditch Company should have been but were not included as a part of the Application for Transfer No. 2122. The omitted rights were decreed in the case of J. A. Garner, et al -vs- G. Clyde Baldwin, Wm., dated March 15, 1930. They are identified by

the department as water right Nos. 22-0001/0002/0003/0004/0005/0600, all with a priority of October 1, 1889.

3. Research by department staff also revealed that decreed right No. 22-0471, with a priority of October 1, 1889, which is included in the application was not held by Woodmansee-Johnson Rexburg Mill Ditch Company, and should not have been a part of Application for Transfer No. 2122.

4. To rectify the discrepancies evident on Application for Transfer No. 2122, an amended application was drafted and forwarded to the applicant on November 15, 1978.

5. The amended application was not returned prior to the applicant's death and James H. Wright, the applicant's son and current owner of the decreed place of use, has verbally advised the department on February 14, 1986, he was not interested in pursuing the transfer.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, authorizes the director of the department to approve an application for transfer in whole or in part, or upon conditions, provided no other water rights are injured, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Sec. 42-203, Idaho Code.

2. Section 42-203, Idaho Code defines local public interest as the affairs of the people in the area directly affected by the proposed use.

3. The interests of the applicant's successor, the shareholders of the Woodmansee-Johnson Rexburg Mill Ditch Company, and other water users on the Teton River would not be served by approval in whole or in part of a defective application which neglects to transfer several of the company's water rights while changing one water right not held by the company.

4. Application for transfer No. 2122 should be denied.

ORDER

IT IS HEREBY ORDERED that pursuant to the provisions of Section 42-222, Idaho Code, Application for Transfer No. 2122 is DENIED.

Dated this 24th day of November, 1986.


BOBBY D. FLEENOR
Hearing Officer

Transfer No. 2122

Application No. 22-0422/0596/
0471/0205/0477/0344/0235/
0236/0206/0595/0345

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

DENIED

Name of applicant Gordon D. Wright Phone 356-3951

Post office address Rt. #1, Sugar City, ID 83448

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: M.L. Nave, Clark & Houghton, Alfred Ricks, W.J. Huskinson,
a. Decree to John S. Eames, and Woodmansee - Johnson Ditch
(Name)
in case of Rexburg Irrigation Company et al vs Teton Irrigation Canal Co. et al
dated 12-16-1910 in 6th District 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
Applicant owns 40 shares of Woodmansee, Johnson Rexburg Mill Ditch Co. water stock
3. Source of water Teton River tributary to Snake River
4. Date of priority see enclosed document
5. Water is used for the following purposes:
amount 59.8 cfs for irrigation purposes from Apr. 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. 59.8 cubic feet per second
&/or
b. acre feet per annum
7. Location of original point of diversion is NE 1/4 of NW 1/4 of Section 1
Township 6N Range 40E, B.M., in Madison County
Additional points of diversion, if any

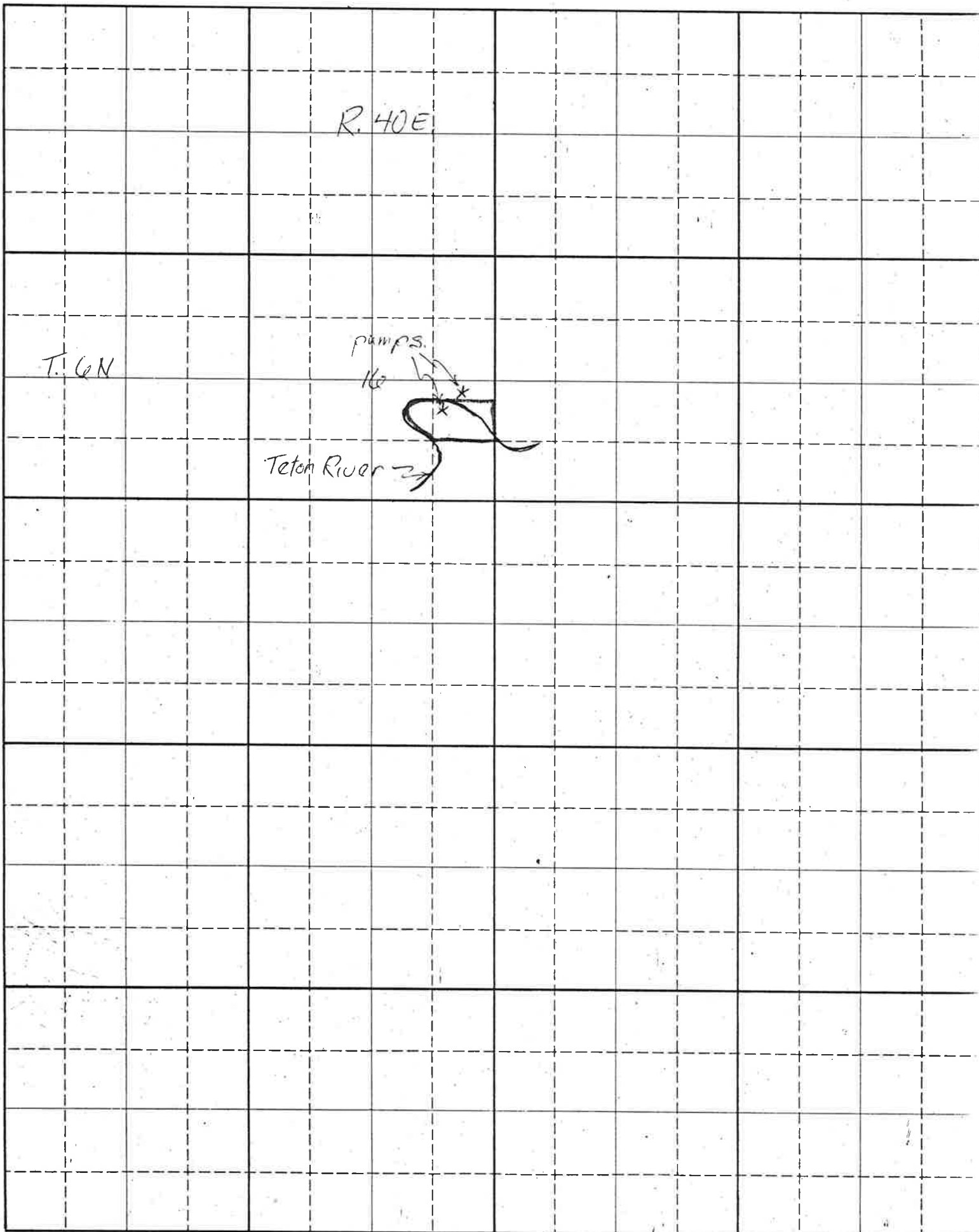
8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	15	X	X	X	X					X	X	X	X					
		11									X	X			X	X			
		22	X	X	X	X													
			DESCRIPTION OF LANDS FOR 22-0596, 22-0471, 22-0477, and 22-0595																
			NOT GIVEN IN DECREE																

Total number of acres to be irrigated **

**Not given in decree

- 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.



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

3. Remarks The Woodmansee Johnson is present owner
of decreed rights and has issued shares of
water stock certificates based on these rights.
Right 22-0471 originally was decreed to REXBURG Mill Co
for 60 cfs however only 9 cfs are presently being
delivered for irrigation under the name of Woodmansee-Johnson.

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.

Gordon D. Knight
(Signature of applicant)

Subscribed and sworn to before me this 22nd day of June, 19 77

Calvin Wray
(Notary public)

My commission expires 6/15/81

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0422/0596/0471/0205/
0477/0344/0235/0236,
and said application is hereby DENIED 0206/0595/0345

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

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

PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER.

Witness my hand this 30th day of March, 19 87

A. Kenneth Dunn
A. KENNETH DUNN, Director

FOR DEPARTMENT USE ONLY

Received by CW Date 6-22-77

Protest filed by _____

Prelim. check by EMC Fee \$30.00

Receipted by CW Date 6-22-77

Copies of protest forwarded by _____

Published in Standard Journal #606

Pub. dates May 16-1978

Hearing held by _____ Date _____

Watermaster recommendation requested on 6-28-77

Recommended for approval denial

WD #01 rec'd. 8-18-77

by Ernest Carlson

Art Larson

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 Gordon D. Wright Phone 356-3951
Post office address Rt. #1, Sugar City, ID 83448

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: M.L. Nave, Clark & Houghton, Alfred Ricks, W.J. Huskinson,
a. Decree to John S. Eames, and Woodmansee - Johnson Ditch
(Name)
in case of Rexburg Irrigation Company et al vs Teton Irrigation Canal Co. et al
dated 12-16-1910 in 6th District 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 _____
Applicant owns 40 shares of Woodmansee, Johnson Rexburg Mill Ditch Co. water stock
3. Source of water Teton River tributary to Snake River
4. Date of priority see enclosed document
5. Water is used for the following purposes:
amount 59.8 cfs for irrigation purposes from Apr. 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. 59.8 cubic feet per second
&/or
b. _____ acre feet per annum
7. Location of original point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 1
Township 6N Range 40E, B.M., in Madison County
Additional points of diversion, if any _____

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 $\frac{1}{4}$	
6N	40E	15	X	X	X	X					X	X	X	X					
		11									X	X			X	X			
		22	X	X	X	X													
			DESCRIPTION OF LANDS FOR 22-0596, 22-0471, 22-0477, and 22-0595																
			NOT GIVEN IN DECREE																

Total number of acres to be irrigated **

**Not given in decree

Posted.

Principal Water Rights of Lower Teton River - Downstream Order (continued)

Party or Canal		Date	Decreed Amount in Sec.-ft.	Accumulated Total
<u>North Salem</u>		June 1, 1888	26.50	26.50
Until July 1 Only				
<u>Roxana</u>		June 1, 1885	16	16
		Jan. 22, 1916	26	42
<u>Island Ward</u>				
(CPD 220)		Jan. 23, 1901	100	100
<u>Woodmansee-Johnson</u>				
M. L. Nave	22-0422	June 1, 1886	0.5	0.5
Woodmansee-Johnson	22-0596	Oct. 1, 1889	12.4	
Woodmansee-Johnson (Supp)	22-0471	Oct. 1, 1889	9	21.9
Clark & Houghton	22-0205	June 1, 1891	3.2	25.1
Alfred Ricks	22-0477	June 1, 1894	0.2	25.3
W. J. Huskinson	22-0344	Apr. 1, 1896	0.4	25.7
John S. Eames	22-0235	July 15, 1896	0.5	26.2
John S. Eames -	22-0236	Apr. 1, 1898	1	
Clark & Houghton	22-0206	Apr. 1, 1898	4	
Woodmansee-Johnson	22-0595	Apr. 1, 1898	27.6	
W. J. Huskinson	22-0345	Apr. 1, 1898	1	59.8
<u>McCormick-Rowe</u> (Orig. decree				
less TR 532, 581, 602)		June 1, 1879	2.71	2.71
		Apr. 1, 1898	8.60	11.31
<u>City of Rexburg</u>		June 10, 1883	27	27
		Apr. 1, 1898	33	60
<u>Rexburg Irrigation</u>		June 10, 1883	130	130
		Apr. 1, 1898	170	300
<u>Hans J. Jepson</u>		June 1, 1887	1.6	1.6
(Bigler Slough)				
<u>Saurey</u>				
Charles Saurey (Supp.)		Oct. 17, 1885	12.32	
N. Sommers (Supp.)		Oct. 17, 1885	11.48	
C. Baker (Supp.)		Oct. 17, 1885	3.2	27.00
		Apr. 1, 1939	9	36
<u>Gary Beddes</u> (Supp.)		May 15, 1898	1.6	1.6
<u>D. L. Gardner</u> (Supp.)		Dec. 1, 1903	1.6	1.6

40
1390
Accumulated
Amount if
water being
transferred
0.01
0.63
0.72
0.73
0.74
0.75
0.79
1.72

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. 1.72 cubic feet per second
&/or
b. acre feet per annum
- The proportionate share for
40 shares with 1,390 outstanding
shares
2. Point of diversion NE 1/4 NW 1/4, Section 1 Township 6N
Range 40E, B.M., Madison County
Additional points

3. Place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	16													24.5	9			33.5

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

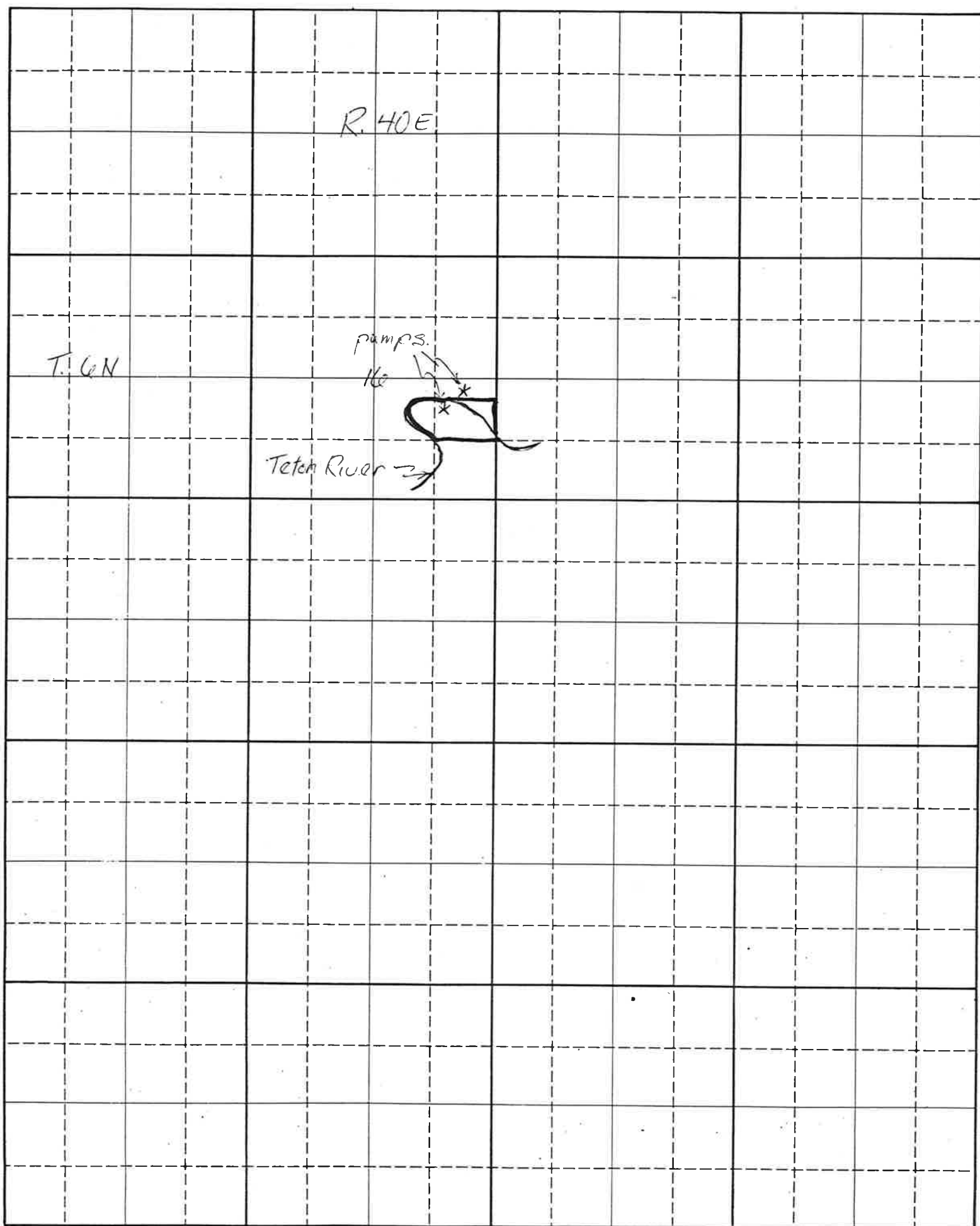
1. Change in point of diversion
- a. Amount of water to be diverted 1.72 c.f.s. &/or acre feet
- b. Point(s) of diversion NE 1/4 SE 1/4, Section 16 Township 6N
Range 40E, B.M., Madison County
Additional points
- c. Description of diverting works there will be 2 pumps; a permanent electric 15 hp pump on south side of river and portable PTO on north side; buried steel main line with three 1/4-mile lateral lines.
- d. Describe the reasons for applying for a change in the point(s) of diversion head ditch was destroyed by June 5th flood

2. Change in place of use

- a. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	16													24.5	9			33.5

- 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.



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3. Remarks The Weedmansee Johnson is present owner
of decreed rights and has issued shares of
water stock certificates based on these rights.
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for 60 cfs however only 9 cfs are presently being
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Gordon D. Knight
(Signature of applicant)

Subscribed and sworn to before me this 22nd day of June, 19 77

Charles W. Knapp
(Notary public)

My commission expires 6/15/81

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____, and said application is hereby _____.

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

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

Witness my hand this _____ day of _____, 19 _____

FOR DEPARTMENT USE ONLY

Received by CW Date 6-22-77

Prelim. check by EMC Fee \$30.00

Receipted by CW Date 6-22-77

Published in Standard Journal #6206

Pub. dates June 30 & July 7-1977

Watermaster recommendation requested on _____

_____ rec'd. _____

Protest filed by _____

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Recommended for _____ approval _____ denial _____
by _____