

T3411 LARSEN

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
TRANSFER OF WATER RIGHT NOS.)
32-7092/32-7058, 32-7022C,)
31-7034H, 31-7034R, 31-7034S,)
35-7390/35-2274, 35-7391/35-2432,)
35-7630B, 35-7630A/35-4015B,)
35-7863, 35-2728/35-2844/35-7361,)
35-2821B, 35-7773/35-2493, 35-2242,)
35-2391/35-7777 AND AMENDMENT OF)
PERMIT NOS. 35-7161, 35-7162.)

BLAINE LARSEN, BLAINE LARSEN FARMS,)
AND LARSEN OF IDAHO,)
Applicant,)

v.)

OWSLEY CANAL COMPANY, et al.,)
Protestants.)

SOURCE: GROUND WATER

COUNTY: BINGHAM, CLARK,
AND JEFFERSON

RECEIVED

SEP 19 1988

Department of Water Resources
Eastern District Office

MEMORANDUM DECISION AND ORDER

BY THE DIRECTOR

Blaine Larsen, Blaine Larsen Farms, and Larsen of Idaho ("Larsen") having made application to transfer numerous water rights; protests having been filed; a combined hearing of all protests to the transfer of water right Nos. 32-7092/32-7058, 32-7022C, 31-7034H, 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 ("Group A") having been held on April 28 and May 5, 1988; protests to the transfer of water right Nos. 35-2728/35-2844/35-7361, 35-2821B,

35-7773/35-2493, 35-2242, 35-2391/35-7777 and to the amendment of permit Nos. 35-7161 and 35-7162 ("Group B") having been withdrawn; and the director of the Idaho Department of Water Resources ("Director") having examined all the evidence and available information, finds, concludes and orders as follows:

FINDINGS OF FACT

GROUP A

1. Larsen made application to the Department of Water Resources ("Department") to change the point of diversion and place of use for the following water rights (Group A):

<u>Water Right No.</u>	<u>Date of Application</u>
32-7092/32-7058, 32-7022C	February 26, 1988
31-7034H, 31-7034R, 31-7034S	March 1, 1988
35-7390/35-2274, 35-7391/35-2432/ 35-7630B, 35-7630A/ 35-4015B, 35-7863	March 9, 1988

2. Larsen proposed the following changes in points of diversion and places of use:

BEFORE CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
32-7092	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T9N, R34E	E $\frac{1}{2}$, Sec. 2, NE $\frac{1}{4}$, Sec. 11, T9N, R34E
32-7058	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T9N, R34E	E $\frac{1}{2}$, Sec. 2, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 11, T9N, R34E
32-7022C	SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, T9N, R34E	S $\frac{1}{2}$, Sec. 18, T9N, R34E
31-7034H	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15, T8N, R36E	NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T8N, R36E

31-7034R	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 21, T8N, R36E	E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 21, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, T8N, R36E
31-7034S	SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T8N, R36E	W $\frac{1}{2}$ E $\frac{1}{2}$, Sec. 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33, T8N, R36E
35-7390	SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E	NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E
35-2274	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 21, T3S, R32E	NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E
35-7391	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27, T3S, R32E	W $\frac{1}{2}$, Sec. 27, T3S, R32E
35-2432	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27, T3S, R32E	W $\frac{1}{2}$, Sec. 27, T3S, R32E
35-7630B	SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E	W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 27, T3S, R32E
35-7630A	SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E	NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, T3S, R32E
35-4015B	SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T3S, R32E	NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, T3S, R32E
35-7863	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T3S, R32E	E $\frac{1}{2}$, Sec. 16, T3S, R32E

AFTER CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
32-7092/32-7058, 32-7022C	SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 27, T9N, R36E	N $\frac{1}{2}$ N $\frac{1}{2}$, Sec. 3, T8N, R36E; SW $\frac{1}{4}$, Sec. 27, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, NE $\frac{1}{4}$, Sec. 33, W $\frac{1}{2}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 35, T9N, R36E
31-7034H, 31-7034R, 31-7034S	NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, T9N, R36E; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, T10N, R36E	NE $\frac{1}{4}$, Sec. 33, NW $\frac{1}{4}$, Sec. 28, T9N, R36E; SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 33, W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T10N, R36E

35-7390/35-2274, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 10,
 35-7391/35-2432/ T8N, R36E;
 35-7630B, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$,
 35-7630A/35-4015B, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 35-7863 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26,
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22,
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31,
 T9N, R36E

NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 Sec. 10, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, T8N,
 R36E; SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31,
 E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 Sec. 28, E $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$
 SW $\frac{1}{4}$, Sec. 27, NW $\frac{1}{4}$,
 Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
 Sec. 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21 T9N,
 R36E

3. The Post-Register published notice of the proposed changes to Group A on March 17 and 24, 1988. The Post-Register published a correction of notice on April 14 and 21, 1988 for the proposed changes to water right Nos. 31-7034H, 31-7034R, and 31-7034S. The Post-Register is a newspaper of general circulation which is published in Bonneville County.

4. The Jefferson Star published notice of the proposed changes to water right Nos. 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 on March 16 and 23, 1988. The Jefferson Star published notice of the proposed changes to water right No. 31-7034H on March 23 and 30, 1988. The Jefferson Star published a correction of notice on April 20 and 27, 1988 for the proposed changes to water right Nos. 31-7034H, 31-7034R, and 31-7034S. The Jefferson Star is a newspaper of general circulation which is published in Jefferson County.

5. The Morning News published notice of the proposed changes to water right Nos. 35-7390/35-2274, 35-7391/35-2432/35-7630B, and 35-7630A/35-4015B on March 17 and 24, 1988. The

Morning News published notice of the proposed changes to water right No. 35-7863 on March 17 and 31, 1988. The Morning News published a correction of notice on April 14 and 21, 1988 for the proposed changes to water right No. 35-7863. The Morning News is a newspaper of general circulation which is published in Bingham County.

6. All the notices described the name of the applicant, the source of the water supply, the amount of water to be transferred, the nature of the use, the approximate location of the points of diversion, and the places of use.

7. On March 30, 1988, the Department received a protest to the proposed changes affecting water right Nos. 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Ray Sanders and Reed Mickleleson. The basis for their protest was a concern that water diverted in Jefferson and Clark Counties would not be replaced with water from Bingham County.

8. On April 1, 1988, the Department received a protest to the proposed changes affecting water right Nos. 32-7092/32-7058, 32-7022C, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Kent W. Foster, attorney, on behalf of the Owsley Canal Company, Jackett Canal Company, Holly Water Users Association, Jefferson Canal Company, Producers Canal Company, and Montevue Canal Company ("Canal Companies").

9. On April 4, 1988, the Department received another protest to the proposed changes affecting water right Nos. 32-7092/32-7058, 32-7022C, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Kent W. Foster,

attorney, on behalf of the Canal Companies, Level Canal Company, and Independent Water Users of Mud Lake, Inc. ("Mud Lake Protestants"). The basis for their protest was a concern that the proposed changes would injure their water rights and be contrary to the local public interest.

10. On April 4, 1988, the Department received four petitions under a cover page which stated that the petitions were in protest to the changes proposed by Larsen. The petitions were signed by Dee Davis, Louis Rasmussen, Michael Rasmussen, Dean A. Peterson, Wallace Robinson, Larid Dee Robinson, Julie McCulloch, Mark C. Blaser, Roger Rydalch, Lorin C. Young, Kris Rydalch, Hal Buster, W. Hal Buster, Jeff Buster, Van R. Weaver, Jan Rydalch, LuAnn Wood, Cleve L. Young, Kathlene Young, Mona Walters, Ruby Young, Keith Meyers, Ron Meyers, Lane Meyers, Bryan K. Lusk, Lea Meyers, Cheryl M. Lusk, Mark E. Peterson, Norma Peterson, Charles Parkinson, Max G. Parkinson, Alan Parkinson, Gary Mackay, Blair Withers, Harold Rigby, Grant Saurey, Edward Rindlisbacher, Cleve P. Bagley, V. J. Bagley, Olif L. Johnson, and Rigby E. Willmore. Prior to the hearing, V.J. Bagley, Cleve Bagley, Grant Saurey, Van R. Weaver, Wallace Robinson, Edward Rindlisbacher, and Blair Withers withdrew their protests. The basis for the petitions was a concern that the proposed changes would be contrary to the public interest.

11. The Department received the statutory filing fee for each application submitted.

12. The right to the use of the water and the right to the use of the diversion works and irrigation system are not repre-

sented by shares of stock in a corporation, and neither the diversion works nor the irrigation system is owned or managed by an irrigation district.

13. Larsen is the owner or lessee of the water rights and permits which make up Group A and Group B.

14. The Department mailed notice of the hearing for Group A protests to the applicant and protestants or to their representatives on April 13, 1988. The notice stated the names of the applicant and protestants, and the time and place fixed for the hearing.

15. On April 26, 1988, Mr. Lorin Young telephoned the Department to designate Dell Raybould as the representative of the protestants which signed the four petitions.

16. A combined hearing to consider all protests to the Group A transfers was held on April 28 and May 5, 1988 in the Madison County Courthouse, Rexburg, Idaho.

17. The applicant and protestants stipulated that the record which would be created by the hearing could serve as a substitute for or a supplement to a future record which would involve other transfer applications made by Larsen.

Injury

18. The applicant's expert witness, Willis L. Burnham, testified that the proposed one-year change in points of diversion and places of use would not diminish the water in the protestant's wells.

19. The applicant's expert witness, Willis L. Burnham, testified that any unused water on the new places of use would

recharge the aquifer within days.

20. The protestant's expert witness, Dr. Charles Brockway, testified that the effect of the proposed one-year change in points of diversion and places of use would probably not propagate to the protestant's wells.

21. Ray Sanders presented Sanders Exhibits 1 and 2 which suggest a one to two year time lag from precipitation received to ground water effect in the Camas National Wildlife Refuge.

Enlargement

22. The proposed change in points of diversion and places of use do not seek to increase the total number of acres which may be irrigated under the original water rights. See Larsen Exhibit 4.

24. Larsen has not requested changes in the rate of diversion, the volume diverted, and the consumptive use of water allowed under the original water rights. At the hearing, Kevan Varin, business manager for Larsen, suggested that the consumptive use on the new places of use may, in fact, be somewhat lower than on the old places of use. See Larsen Exhibit 15.

Public Interest

25. Kevan Varin testified how Larsen's farming operation buys necessary goods and services from local retailers, provides jobs, and improves the local tax base.

26. All new places of use were irrigated in 1987 according to the testimony of Kevan Varin.

27. Testimony was given by Dell Raybould which suggested that approval of the proposed changes would circumvent the

federal Food Securities Act of 1985 and adversely impact the local economy by depressing local commodity prices. Protestants' reasoning is that any increase in production will decrease commodity prices and any decrease in production will increase commodity prices.

Interim Approval

28. On May 11, 1988, Larsen petitioned the Director to approve a temporary plan for emergency supply pending final determination of all the transfer applications.

29. On May 16, 1988, the Director issued an interim order which approved the change in points of diversion and places of use for Group A. Also, the interim order denied all temporary and emergency relief with one exception. Water diverted under the rights which were transferred by the interim order could temporarily be used upon the applicant's other wheat acreage for which applications for transfer remained pending before the Department.

GROUP B Applications

30. On March 16, 1988, Larsen made application to the Department to change the point of diversion and place of use for the following water rights: Nos. 35-2728/35-2844/35-7361, 35-2821B. The transfer applications for these rights were amended on April 8, 1988.

31. Larsen proposed the following changes in points of diversion and places of use:

BEFORE CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-2728	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T4S, R30E	W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, T4S, R30E
35-2844	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T4S, R30E	S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, T4S, R30E
35-7361	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T4S, R30E	SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, T4S, R30E
35-2821B	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 24, T4S, R30E	E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 23, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 24, T4S, R30E

AFTER CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-2728/35-2844/ 35-7361, 35-2821B	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T8N, R37E	NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 16, T8N, R37E

AMENDED CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-2728/35-2844/ 35-7361, 35-2821B	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T8N, R36E; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, T7N, R36E; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T9N, R36E	N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 9, T7N, R36E; SW $\frac{1}{4}$, Sec. 11, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 13, T8N, R36E; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T9N, R36E

32. On April 6, 1988, Eastern Idaho Production Credit Association ("PCA") made application to the Department, on behalf of Larsen, to change the point of diversion and place of use for the following water rights: Nos. 35-7773/35-2493, 35-2242,

35-2391/35-7777.

33. On April 6, 1988, PCA made application to the Department, on behalf of Larsen, to amend the point of diversion and place of use for the following permits: Nos. 35-7161, 35-7162.

34. PCA proposed the following changes in points of diversion and places of use:

BEFORE CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-7773	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, T1S, R33E	SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 26, NE $\frac{1}{4}$, Sec. 27, T1S, R33E
35-2493	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, T1S, R33E	SE $\frac{1}{4}$, Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 26, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27, T1S, R33E
35-2242	SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 36, T1S, R33E	S $\frac{1}{2}$, Sec. 36, T1S, R33E
35-2391	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 28, T1S, R33E	S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, T1S, R33E
35-7777	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 28, T1S, R33E	S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, T1S, R33E

<u>Permit No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-7161	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, T1S, R33E	W $\frac{1}{2}$, Sec. 21, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 28, T1S, R33E
35-7162	NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T1S, R33E	E $\frac{1}{2}$, Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 28, T1S, R33E

AFTER CHANGE

<u>Water Right No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-7773/35-2493, 35-2242, 35-2391/35-7777	NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T6N, R35E; NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 3, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T8N,	S $\frac{1}{2}$, Sec. 31, T6N, R35E; S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 3, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$

R36E; NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, SE $\frac{1}{4}$, Sec. 21, T8N,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, T9N, R36E; W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
R36E Sec.35, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
Sec. 25, T9N, R36E

<u>Permit No.</u>	<u>Points of Diversion</u>	<u>Places of Use</u>
35-7161, 35-7162	NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 31, T6N, R35E; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T8N, R36E; SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 35, T9N, R36E	N $\frac{1}{2}$, Sec. 31, T6N, R35E; E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 10, T8N, R36E; E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 24, NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 35, T9N, R36E

35. On April 12, 1988, Larsen applied to the Department to change the points of diversion and places of use for the following water rights: Nos. 35-7009/35-7157, 35-2545B, 35-7222. Larsen later withdrew these transfer applications.

36. The Fremont County Herald-Chronicle published notice of the proposed changes to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 7 and 14, 1988. The Fremont County Herald-Chronicle is a newspaper of general circulation which is published in Fremont County.

37. The Morning News published notice of the proposed changes to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 7 and 14, 1988. The Morning News published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 21 and 28, 1988; and the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 21 and 28, 1988.

38. The Post-Register published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 21 and 28, 1988; and the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 21 and 28, 1988.

39. The Jefferson Star published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 20 and 27, 1988. The Jefferson Star published a correction of notice on May 4 and 11, 1988 for the proposed changes to water right Nos. 35-2728/35-2844/35-7361. The Jefferson Star published notice of the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 20 and 27, 1988.

40. All the notices described the name of the applicant, the source of the water supply, the amount of water to be transferred, the nature of the use, the approximate location of the points of diversion, and the places of use.

41. On May 2, 1988, the Department received a protest to the proposed transfer of water right Nos. 31-7034H, 35-7773/35-2493, 35-2242, and 35-7222 and the proposed amendment of permit Nos. 35-7161, and 35-7162 from Kent W. Foster, attorney, on behalf of the Mud Lake Protestants. The basis for the protest was a concern that the proposed changes would injure the water rights of the protestants and be contrary to the local public interest.

42. On May 4, 1988, the Department received a protest to the proposed transfer of the Group B water rights and water right

Nos. 35-7009/35-7157, 35-2545B, and 35-7222 from Robert K. Oser on behalf of the United States Fish and Wildlife Service. The basis of the protest was the potential detrimental effects that the proposed changes might have on the water resources of the Camas National Wildlife Refuge.

43. On May 9, 1988, the Department received a protest to the proposed transfer of the Group B water rights and water right Nos. 35-7009/35-7157, 35-2545B, and 35-7222 from Herbert A. Pollard II on behalf of Idaho Department of Fish and Game. The basis of the protest was a concern that the proposed changes would injure protestant's water rights and be contrary to the local public interest.

44. On May 24, 1988, Larsen withdrew the application to transfer water right No. 35-7222.

45. The Department mailed notice of the hearing on the protests for Group B and water right Nos. 35-7009/35-7157, and 35-2545B to the applicants and protestants or to their representatives on June 1, 1988. The notice stated the names of the applicants and protestants and the time and place fixed for the hearing. The hearing was originally scheduled for June 2 and 3, 1988, but was subsequently rescheduled for July 14 and 15, 1988.

46. On June 3, 1988, the United States Fish and Wildlife Service and the Idaho Department of Fish and Game withdrew their protests to the proposed change in points of diversion and places of use for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

47. On June 3, 1988, Larsen filed with the Department a petition to allow temporary water use pending resolution of the applications for change in points of diversion and places of use for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

48. On June 6, 1988, the Director issued an order which temporarily granted the proposed changes for Group B and water right Nos. 35-7009/35-7157, and 35-2545B to the extent necessary to maintain the crop on the new places of use. The order was subject to the final determination of the transfer applications.

49. On July 13, 1988, Kent W. Foster, the attorney representing the Mud Lake Protestants, withdrew their protests to the transfer applications for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

50. On July 13, 1988, Larsen withdrew the transfer applications for water right Nos. 35-7009/35-7157, and 35-2545B.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222(1) (Supp. 1988) applies to the changes proposed by the applicant. Section 42-222(1) states, in part, the following:

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, 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 section 42-203, Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. (emphasis added.)

Injury to Other Water Rights

2. The injury mentioned in section 42-222(1) refers to an injury to water rights, not to commodity prices, land values or other property rights. To prevent a change in the point of diversion and place of use of water, the injury, if any, must be to a water right. Colthrop v. Mountain Home Irrigation Dist., 66 Idaho 173, 180, 157 P.2d 1005, 1008 (1945).

3. Since Larsen is the owner or lessee of the water rights, finding 13, he has the right to divert a certain amount of water from the Snake Plain Aquifer. The issue then is not whether the diversion of water per se from the Snake Plain Aquifer will injure the protestants water rights. Instead, the issue with respect to injury is whether the change in points of diversion and place of use will injure the protestant's water rights.

4. The injury claimed must be a substantial injury, not merely a fanciful injury but a real and actual injury. Beecher v. Cassia Creek Irrigation Co., 66 Idaho 1, 7, 154 P.2d 507, 509 (1944). In other words, the evidence must show a direct injury to the protestant's water rights by the proposed changes. The mere fact that injury might result if changes of place of diversion and use are granted, is not a valid reason to reject the water user's application. Application of Boyer, 73 Idaho 152, 161, 248 P.2d 540, 545 (1952).

5. The protestants failed to show how pumping for one year at the new points of diversion, as compared with pumping at the old points of diversion, will cause an actual and real injury to

their water rights.

6. The protestants failed to show how irrigation for one year on the new places of use, as compared with irrigation on the old places of use, will cause an actual and real injury to their water rights.

7. Because the protestants have failed to show that the proposed change in points of diversion and places of use will cause an actual and real injury to their water rights, the injury requirement of section 42-222(1) has not been met by the protestants.

Enlargement

8. The Idaho Supreme Court has not described any circumstances which constitute "an enlargement in use of the original right" under Idaho Code § 42-222(1). However, the normal meaning of the words used imply that any use of water beyond the limits of the original right is an enlargement. In other words, if the amount of use or period of use of water is limited by the original right, any use beyond that limit is an enlargement.

9. Since the number of acres which may be irrigated, the rate at which water may be diverted, the volume of water which may be diverted, and the amount of water which may be consumed under the original water rights will not be increased by approval of the proposed changes, findings 22 and 24, such changes will not create an enlargement of the original water rights.

Public Interest

10. Prior to approving a change in point of diversion or place of use the director of the Department must determine that

such change is in the local public interest as defined in section 42-203A, Idaho Code. Idaho Code § 42-222(1) (Supp. 1988).

11. The local public interest includes any locally important factor impacted by proposed appropriations. Shokal v. Dunn, 109 Idaho 330, 338, 707 P.2d 441, 449 (1985).

12. The burden of demonstrating which elements of the public interest are impacted and to what degree lies with the parties having peculiar knowledge of the affected elements. Id. at 339.

13. The burden of proof is upon the applicant to show that the project is either in the local public interest or that there are factors that outweigh the local public interest in favor of the project. Id. at 339.

14. The determination of what elements of the public interest are impacted, and what the public interest requires, is committed to Water Resources' sound discretion. Id. at 339.

15. The suggestion by some of the protestants that approval of the proposed changes would circumvent the underlying policies of the federal Food Securities Act of 1985, 16 U.S.C. §§ 3801 et seq., amounts to an assertion that approval of the proposed changes will decrease the opportunity for farmers in the local area "to derive fair and reasonable profits in the marketplace." S. Rep. No. 145, 99th Cong., 1st Sess. 1, reprinted in 1985 U.S. Code Cong. & Admin. News 1676.

16. The pertinent issue is not the degree of consistency of the proposed changes with the underlying policies of the Food Securities Act of 1985. Rather, the pertinent issue is whether

approval of the proposed changes is in the local public interest, defined as the affairs of the people in the area directly affected by the proposed use.

17. Although increased local production may tend to result in decreased commodity prices, regional and national production levels are likely to have a greater influence on commodity prices.

18. The market price of local farm commodities is not the only factor in the local economy equation. For example, the applicant presented evidence that money spent on seed, fertilizer, fuel, tractors and other goods which are necessary for agricultural production benefit the local economy. Finding 25. Production also benefits the local economy by increasing the local tax base and by providing jobs.

19. The local public interest does not require the denial of the proposed water right transfers as a means of protecting established markets and prices for farm commodities.

20. Approval of the proposed changes in points of diversions and places of use for a one-year period will not conflict with the local public interest.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the applications for transfer of water right Nos. 32-7092/32-7058, 32-7022C, 31-7034H, 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, 35-7863, 35-2728/35-2844/35-7361, 35-2821B, 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and amendment of permit Nos. 35-7161, and 35-7162 are APPROVED subject to the

following conditions:

1. The approval is only for the 1988 irrigation season. At the end of the 1988 irrigation season, the places of use and points of diversion under the various water rights and permits shall revert to the lands from which transferred. Applicant should understand that any planned use of these water rights and permits to cover additional years of irrigation of the Larsen lands beyond the 1988 irrigation season will be processed as permanent transfers.

2. The lands from which the water rights and permits are transferred shall not be irrigated from any source during the 1988 irrigation season.

3. For the purpose of appeal, this is the final order issued by the Director.

DATED this 7TH day of September, 1988.


R. KEITH HIGGINSON, Director

CERTIFICATE OF SERVICE

I hereby certify that on this 9TH day of September, 1988, I served a true and correct copy of the foregoing Memorandum Decision and Order by placing a copy thereof in the United States mail addressed to the following:

Jeffrey C. Fereday, Esq.
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER
277 North Sixth St., Suite 200
P.O. Box 2720
Boise, ID 83701

Kent Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
Idaho First National Bank Bldg.
P.O. Box 129

Idaho Falls, ID 83405

Mr. Reed Mickelson
Hamer, ID 83425

Mr. Ray Sanders
Hamer, ID 83425

Mr. Dell Raybould
3215 N. 2000 W.
Rexburg, ID 83440

Eastern Idaho Production Credit Assoc.
203 So. Garfield
Pocatello, ID 83204

Mr. Robert K. Oser
Program Analysis
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500 N.E. Multnomah St. Suite 1692
Portland, OR 97232

Ronald E. Swan, Esq.
U.S. Department of the Interior
Office of the Regional Solicitor
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Deputy Attorney General
Idaho Department of Fish & Game
P.O. Box 25
Boise, ID 83707



RITA I. FLECK
Secretary/Records Manager
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 3411

APPLICATION FOR TRANSFER OF WATER RIGHT

BROADHEAD #3

PART 1

APPROVED

Name of applicant Blaine Larsen,
Blaine Larsen Farms, Larsen of Idaho Phone (208)662-5522
 Post Office address Box 188 Hamer, ID 83425

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To provide irrigation water on a portion of
cropland in 1988 only, cropland for which applications for permits have been filed
but not yet approved. See Remarks on page 2.

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>35-7630A</u>	<u>8/3/76</u>	<u>3.78</u>	<u>Irrigation</u>	<u>4/1</u> to <u>11/1</u>
<u>35-4015B</u>	<u>5/24/61</u>	<u>4.8</u>	<u>Irrigation</u>	<u>4/1</u> to <u>11/1</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

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

3. Source of water groundwater tributary to _____

4. Point(s) of Diversion: The points of diversion after change consist of 7 wells supplying 7
irrigation pivots which are identified in Attachment #1.

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

5. Lands irrigated or place of use: See Attachment #1 for breakdown of acres irrigated by each pivot.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8N	36E	10		X			X												
		3											X			X			
9N	36E	27	X	X	X	X	X	X	X	X	X	X			X	X	X	X	
		26					X	X	X	X									
		21				X									X			X	
		22							X	X	X	X	X	X					
		28	X			X									X				
		31								X	X								
			X				X				X				X				Total acres <u>1179</u>

PART 1**6. General Information:**

- a. Description of diversion system Wells & pumps with pivot irrigation system.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Will receive only natural rain fall and snow fall and will not otherwise be irrigated in 1988. Some or all of the lands will be set-aside from production under federal programs.
- d. Remarks:
This is one of four coordinated transfer applications submitted together for joint consideration. Therefore, the points of diversion and places of use described in B above are the same in all four transfer applications and cover all four transfer applications.

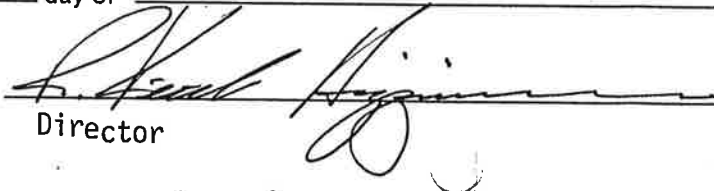
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 35-7630A/4015B

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

Pursuant to the Interim Order dated 5/16/88.

Witness my hand this 16th day of May, 19 88


Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
 In case of _____ vs. _____
 dated _____ in _____ county of _____
- b. License No. 35-7630 issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other Lease

3. Source of water groundwater tributary to _____

4. Date or priority 8/3/76

5. Water is used for the following purpose:

amount 4.8 for Irrigation purposes from 4/1 to 11/1
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right 4.8 cubic feet per second and/or 1057.0 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NE	21	3S	32E	Bingham	
		SW	SE	21	3S	32E	Bingham	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3S	32E	27						13	38			13							64
		28	39	39	40	40									40	40			238

Total acres 302

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

_____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 3.78 for Irrigation purposes from 4/1 to 11/1
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NE	21	3S	32E	Bingham	
		SW	SE	21	3S	32E	Bingham	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3S	32E	28	39	39	40	40									40	40			238

Total acres 238

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 1.02 for Irrigation purposes from 4/1 to 11/1
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NE	21	3S	32E	Bingham	
		SW	SE	21	3S	32E	Bingham	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3S	32E	27						13	38			13							64

Total acres 64

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. 35-4015 issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☒ Other Lease agreement

3. Source of water groundwater tributary to _____

4. Date or priority 5/24/61

5. Water is used for the following purpose:

amount 6.4 for Irrigation purposes from 4/1 to 10/31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 6.4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SE	21	3S	32E	Bingham	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3S	32E	21															40	40	80
		28	40	40	40	40									40	40			240

Total acres 320

9. Describe any other water rights used for the same purpose as described above 35-7390/2274

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 4.8 for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SE	21	3S	32E	Bingham	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3S	32E	28	40	40	40	40									40	40			240

Total acres 240**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 1.6 for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SE	21	3S	32E	Bingham	

3. Lands irrigated or place of use:

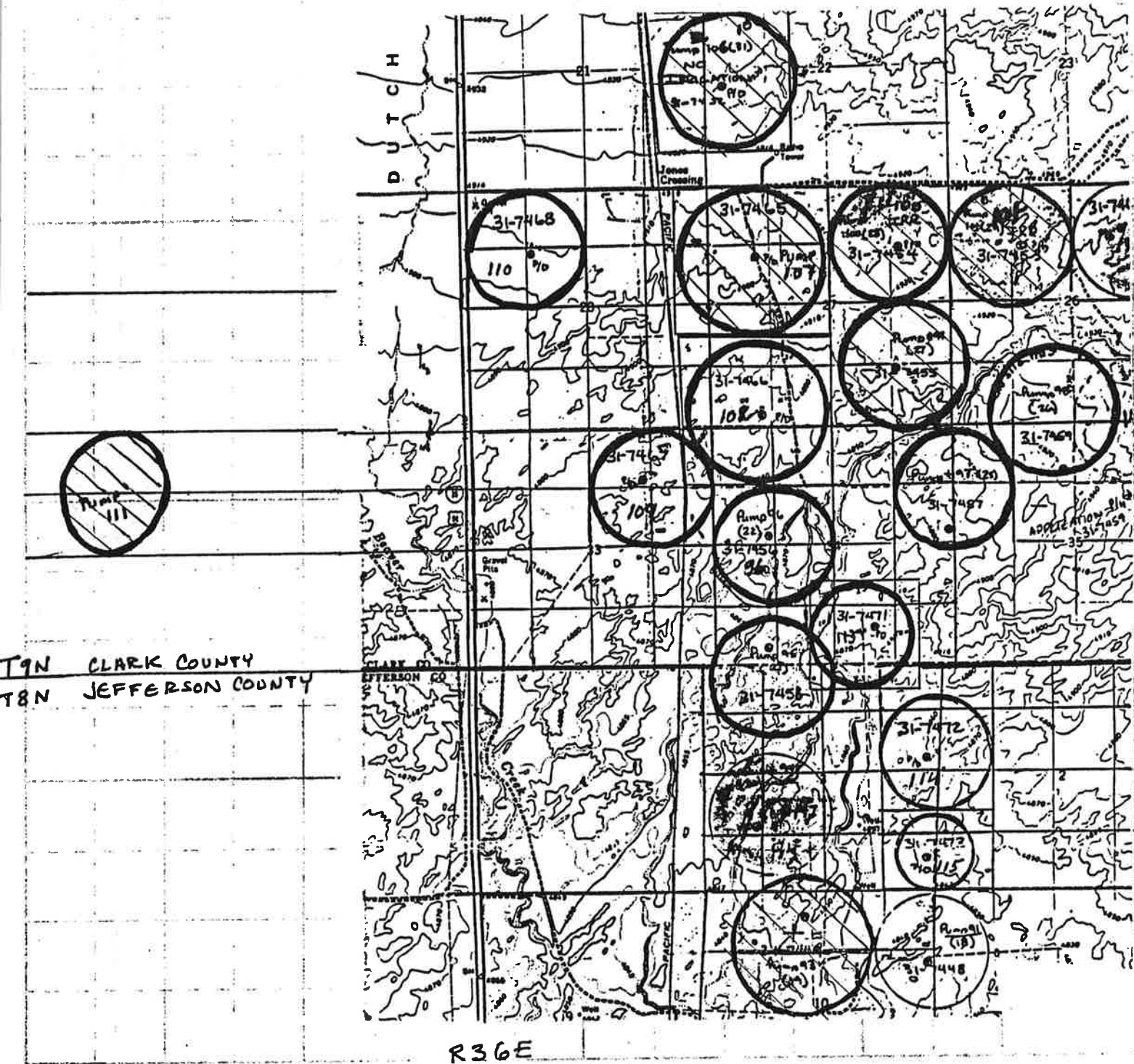
Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3S	32E	21															40	40	80

Total acres 80

STATE OF IDAHO MAR 10 1968
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



ATTACHMENT #1 *Department of Water Resources*

Points of diversion and places of use after change applicable to Broadhead transfers #1 through #4 in combination, as delineated by Larsen pump numbers

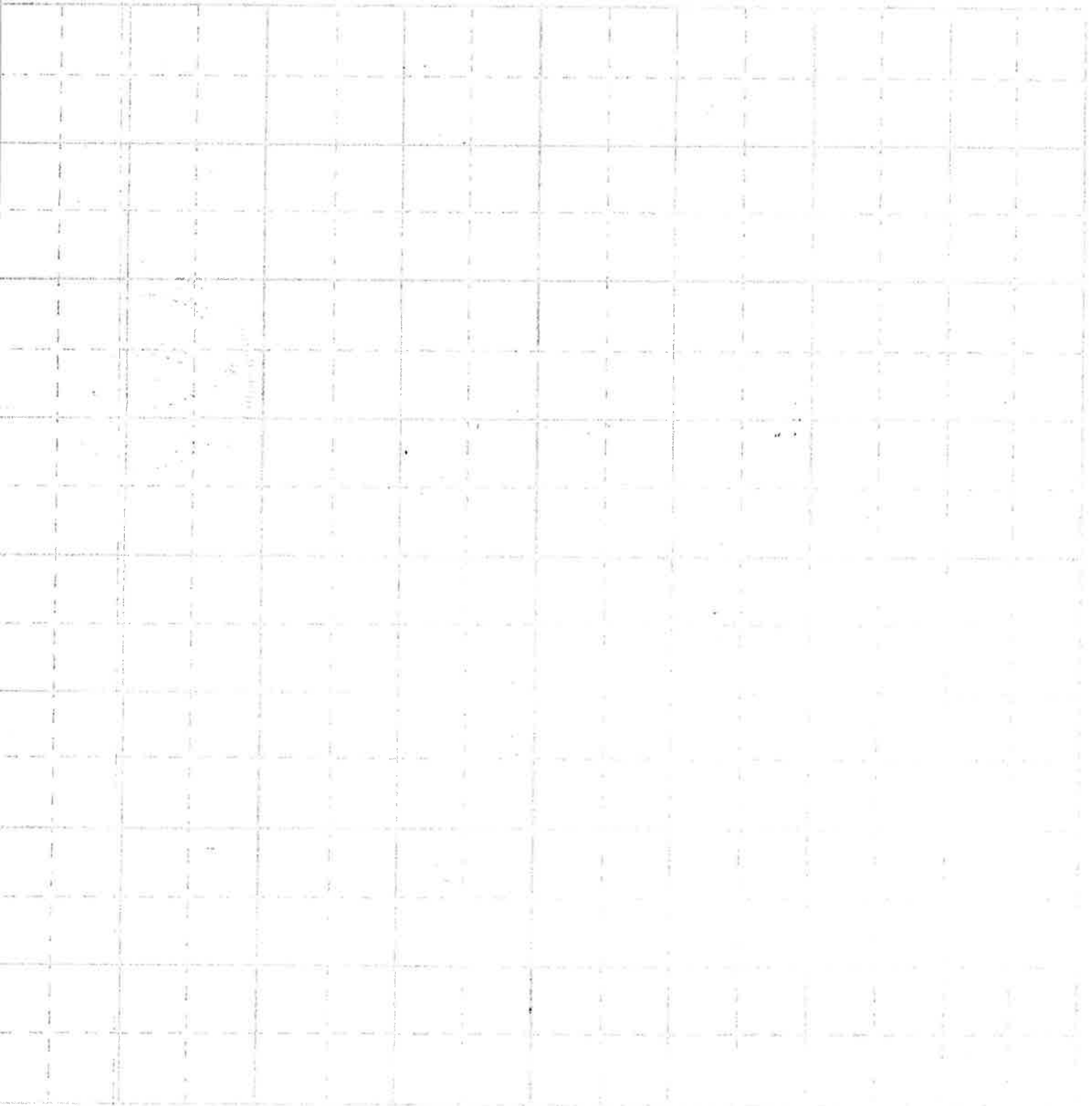
Pump No.	Points of Diversion	Places of Use	Acres to be Irrigated*
93	NE1/4, NE1/4, NW1/4, Sec. 10, T8N, R36E	NW1/4, NE1/4 and NE1/4, NW1/4, Sec. 10, T8N, R36E SE1/4, SW1/4 and SW1/4, SE1/4 Sec. 3, T8N, R36E	200
99	NW1/4, SE1/4, SE1/4, Sec. 27, T9N, R36E	SE1/4, Sec. 27, T9N, R36E ✓	136
100	NW1/4, SE1/4, NE1/4, Sec. 27, T9N, R36E	NE1/4, Sec. 27, T9N, R36E ✓	164
101	NW1/4, SE1/4, NW1/4, Sec. 26, T9N, R36E	NW1/4, Sec. 26, T9N, R36E ✓ <i>Some in Sec 26</i>	164
106	NW1/4, NW1/4, SE1/4, Sec. 22, T9N, R36E	SE1/4, NE1/4 and E1/2, SE1/4, Sec. 21, T9N, R36E S1/2, NW1/4 and SW1/4, Sec. 22, T9N, R36E ✓	193
107	NE1/4, SW1/4, NW1/4, Sec. 27, T9N, R36E	NW1/4 and N1/2, SW1/4, Sec. 27, T9N, R36E ✓ E1/2, NE1/4 and NE1/4, SE1/4, Sec. 28, T9N, R36E	196
111	NW1/4, NW1/4, SE1/4, Sec. 31, T9N, R36E	SW1/4, NE1/4 and SE1/4, NW1/4 and NE1/4, SW1/4 and NW1/4, SE1/4, Sec. 31, T9N, R36E ✓	126

Total 1,179 acres

* Acreage is based on actual acres irrigated in 1987 and have been measured by federal crop insurance officials, ASCS officials and/or the pivot system dealers. These pivots will not be enlarged in 1988.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**



PART 3**B. CHANGES IN NATURE OF USE**

1.

<u>New Nature of Use</u>	<u>Amount</u> <u>(cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

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 willful misrepresentations made in this application may result in voiding its approval.

James D. Hansen for BLAINE RARSEN
(ATTORNEY FOR) (Signature of Applicant)

Subscribed and sworn to before me this 14TH day of MARCH, 19 88.

Jim. John
(Notary Public)

My commission expires 2/1

FOR DEPARTMENT USE ONLY

Transfer contains 10 pages and _____ attachments

Received by Jim Date 3-17-88 Protest filed by _____

Prelim. check by Jim EG Fee 50.00

Receipted by EG Date 3-18-88 # C000167

Published in Jefferson Star, Post Register, Blackfoot News Copies of protest forwarded by _____

Pub. dates 3-17 + 3-24-88 dg Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____