

4363

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**TRANSFER OF A CLAIM TO A WATER RIGHT**

TRANSFER NO. 4363 (PART)  
CLAIM NO. 34-10374

RECEIVED

SEP 14 1994

This is to certify that: **CHARLOTTE MC KELVEY**  
**DONALD T MC KELVEY**  
**PO BOX 90**  
**MACKAY ID 83251**

Department of Water Resources  
Eastern District Office

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| IRRIGATION            | 05/01 to 10/15       | 0.34 CFS              | * 73.5 AF            |

| <u>SOURCE</u>  | <u>TRIBUTARY OF</u> |
|----------------|---------------------|
| BIG LOST RIVER | SINKS               |

Priority: 04/22/1884

LOCATION OF POINT(S) OF DIVERSION: NESW , Sec. 20, Township 07N, Range 24E  
CUSTER County

PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 07N                              | 24E        | 20         | SWSE 6       | SESE 8       |              | 14           |
|                                  |            | 29         | NENE 1       | NWNE 6       |              | 7            |
| Total number of acres irrigated: |            |            |              |              |              | * 21         |

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
2. A measuring device and lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
4. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

TRANSFER NO. 4363 (PART)  
CLAIM NO. 35-10374

CONDITIONS/REMARKS:

5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- \* 8. Use of combined Right Nos. 34-00851 and 34-10374 is limited to a total combined annual consumptive use volume of 52.5 af, diversion volume of 73.5 af and to the irrigation of a combined total of 21 acres in a single irrigation season.
9. Water Right No. 34-00851 is also changed under Transfer No. 4363 and is represented on a separate transfer approval.

Dated this 2<sup>nd</sup> day of September, 1994.

J. Glen Saxton

Chief, Water Alloc. Bureau

**MEMORANDUM**

**TO:** FILE NOS. 34-00851 & 34-10374

**FROM:** PAM SKAGGS<sup>CS</sup>/STATE OFFICE

**SUBJECT:** TRANSFER NO. 4363

**DATE:** September 1, 1994

=====

Transfer No. 4363 was filed to change the point of diversion under Right Nos. 34-00851 and 34-10374. The existing point of diversion is into Sharp ditch, which is not in good condition and the Big Lost River Irrigation District would like to eliminate it from the system. The new point of diversion into Swauger ditch is located closer to the irrigated acres which the ditch passes directly through.

The transfer was prepared and processed using the SRBA Basin 34 Director's Report recommendations of these rights. Right No. 34-10374 is a combination of two previously decreed rights, 34-00280 and 34-00850, that will reference the transfer. The approved transfer versions of these rights will be stored under an X prefix in the WR (X34-00851) and AJ (X34-10374) database pending conclusion of the adjudication.

The rights held specific overlap conditions that apply to use of these combined rights. Other recommended conditions include watermaster control, measuring device, irrigation overlap, right-of-way and standard transfer conditions.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**TRANSFER OF WATER RIGHT**

**TRANSFER NO. 4363 (PART)**  
**WATER RIGHT NO. 34-00851**

**RECEIVED**

SEP 14 1994

Department of Water Resources  
Eastern District Office

This is to certify that: **CHARLOTTE MC KELVEY**  
**DONALD T MC KELVEY**  
**PO BOX 90**  
**MACKAY ID 83251**

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| IRRIGATION            | 05/01 to 10/15       | 0.20 CFS              | * 66.2 AF            |

| <u>SOURCE</u>  | <u>TRIBUTARY OF</u> |
|----------------|---------------------|
| BIG LOST RIVER | SINKS               |

Priority: 06/01/1888

LOCATION OF POINT(S) OF DIVERSION:

NESW , Sec. 20, Township 07N, Range 24E  
CUSTER County

PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 07N                              | 24E        | 20         | SWSE 6       | SESE 8       |              | 14           |
|                                  |            | 29         | NENE 1       | NWNE 6       |              | 7            |
| Total number of acres irrigated: |            |            |              |              |              | * 21         |

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
2. A measuring device and lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
4. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

TRANSFER NO. 4363 (PART)  
WATER RIGHT NO. 34-00851

CONDITIONS/REMARKS:

5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- \* 8. Use of combined Right Nos. 34-00851 and 34-10374 is limited to a total combined annual consumptive use volume of 52.5 af, diversion volume of 73.5 af and to the irrigation of a combined total of 21 acres in a single irrigation season.
9. Snake River Basin Adjudication Claim No. 34-10374 is also changed under Transfer No. 4363 and is represented on a separate transfer approval.

Dated this 2<sup>nd</sup> day of September, 1994.

J. Glen Saylor  
Chief, Water Alloc. Bureau

**MEMORANDUM**

**TO:** FILE NOS. 34-00851 & 34-10374

**FROM:** PAM SKAGGS<sup>CS</sup>/STATE OFFICE

**SUBJECT:** TRANSFER NO. 4363

**DATE:** September 1, 1994

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The rights held specific overlap conditions that apply to use of these combined rights. Other recommended conditions include watermaster control, measuring device, irrigation overlap, right-of-way and standard transfer conditions.

COPY

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Transfer No. 4363

Page \_\_\_\_\_ of \_\_\_\_\_

## APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of applicant Don or Charlotte McKelvey Phone 588-3356  
 Post Office address Box 90 Mackay, ID 83251

## 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 It is difficult to get water delivered at the old diversion. The ditch is not in good shape and district would like to eliminate it.

## 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>34-10374</u> | <u>4/22/1884</u> | <u>0.34</u>        | <u>Irrigation</u> | <u>5-01</u> to <u>10-15</u> |
| <u>34-00851</u> | <u>6/01/1888</u> | <u>0.20</u>        | <u>Irrigation</u> | <u>5-01</u> to <u>10-15</u> |
| _____           | _____            | _____              | _____             | _____ to _____              |
| _____           | _____            | _____              | _____             | _____ to _____              |
2. Total amount of water being transferred 0.54 cubic feet per second and/or 52.5 acre-feet per annum.
3. Source of water Big Lost River tributary to Sinks
4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     | NE  | SW  | 20   | 7N   | 24E  | Custer | Swanger Ditch            |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

## 5. 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 |        |
| 7N   | 24E  | 20   |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 6      | 8      | 14     |
|      |      | 29   | 1      | 6      |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 7      |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 21

**PART 1****6. General Information:**

a. Description of diversion system Swager ditch to place of use

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? N.A. 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:

N.A. - Good possibility of more consistent delivery

d. Remarks:

**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 \_\_\_\_\_, subject to the following limitations and conditions:

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

**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. 34-00851 Decreed to Charlotte + Donald McKelvey  
 in case of SRBA Directors Report vs. \_\_\_\_\_  
 dated \_\_\_\_\_ in \_\_\_\_\_ county of \_\_\_\_\_
- b. License No. \_\_\_\_\_ 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 \_\_\_\_\_

3. Source of water Big Lost River tributary to Sinks

4. Date or priority 6/01/1888

5. Water is used for the following purpose:

amount 0.20 cfs for Irrigation purposes from 5-01 to 10-15  
 (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 0.20 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     | NW  | NW  | SE  | 12   | 7N   | 23E  | Custer | Sharp Ditch              |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

8. 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 |        |
| 7N   | 24E  | 20   |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 6      | 8      | 14     |
|      |      | 29   | 1      | 6      |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 7      |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 21

9. Describe any other water rights used for the same purpose as described above 34-10374

**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. 34-10374 Decreed to Charlotte + Donald Mc Kelvey  
 in case of SRBA Directors Report vs. \_\_\_\_\_  
 dated \_\_\_\_\_ in \_\_\_\_\_ county of \_\_\_\_\_

b. License No. \_\_\_\_\_ 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 \_\_\_\_\_

3. Source of water Big Lost River tributary to Sinks

4. Date or priority 4/22/1884

5. Water is used for the following purpose:

amount 0.34 cfs for Irrigation purposes from 5-01 to 10-15  
 (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 0.34 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     | NW  | NW  | SE  | 12   | 7N   | 23E  | Custer | Sharp Ditch              |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

8. Lands irrigated or place of use:

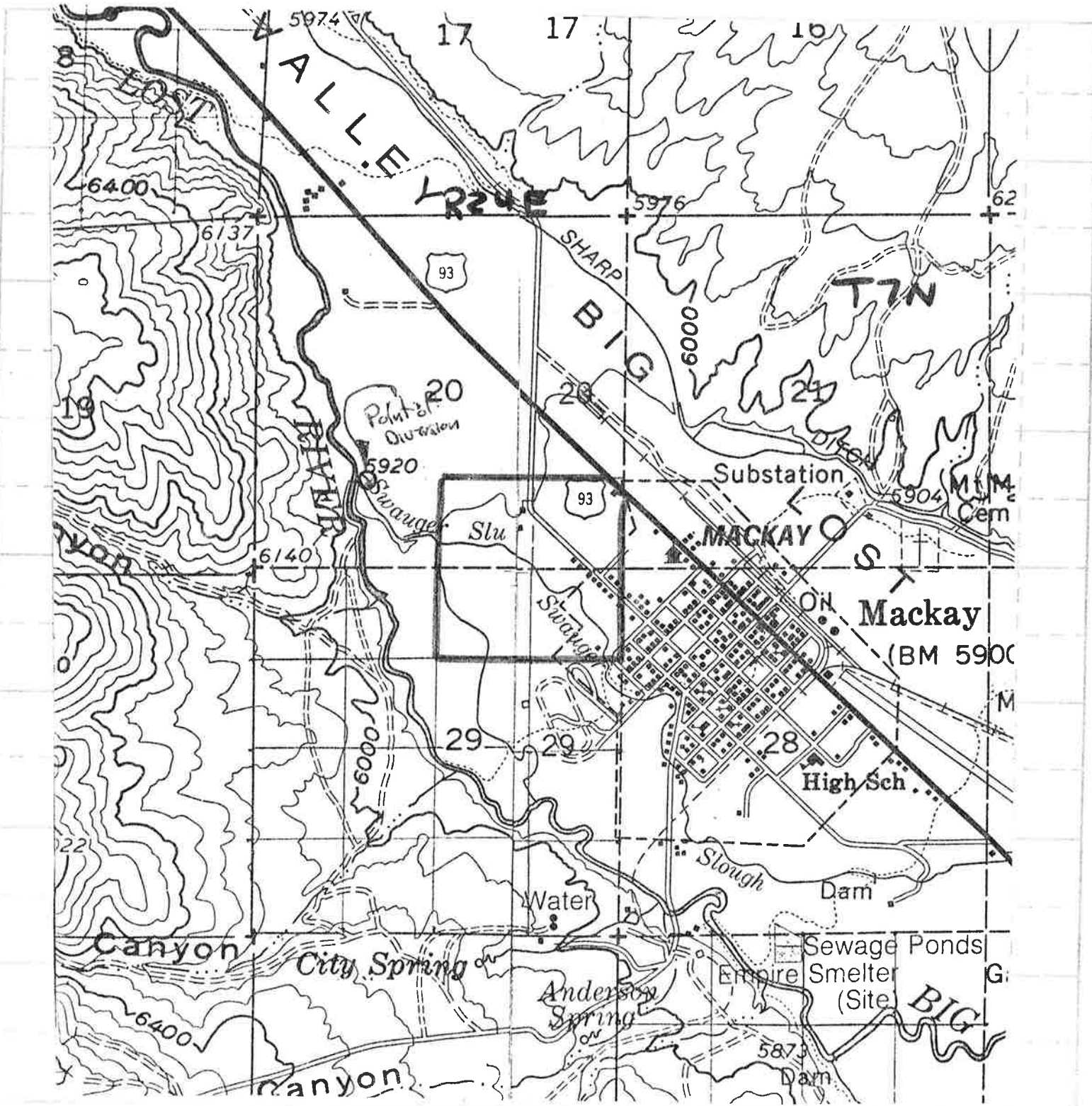
| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | 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 |        |
| 7N   | 24E  | 20   |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 6      | 8      | 14     |
|      |      | 29   | 1      | 6      |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 7      |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 21

9. Describe any other water rights used for the same purpose as described above 34-00851

**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.



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

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

| 1 | <u>New Nature of Use</u> | <u>Amount</u><br>(cfs/ac-ft) | <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.

\_\_\_\_\_  
(Signature of Applicant)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My commission expires \_\_\_\_\_

**FOR DEPARTMENT USE ONLY**

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments

Received by HLJ Date \_\_\_\_\_ Protest filed by \_\_\_\_\_

Prelim. check by \_\_\_\_\_ Fee 50.00 \_\_\_\_\_

Received by HLJ # E019836 Date 5-23-94 \_\_\_\_\_

Published in \_\_\_\_\_ Copies of protest forwarded by \_\_\_\_\_

Pub. dates \_\_\_\_\_ Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on \_\_\_\_\_ Recommended for ☐ approval ☐ denial

\_\_\_\_\_ rec'd. \_\_\_\_\_ by \_\_\_\_\_

Copy of transfer sent to lien holder \_\_\_\_\_