

4219



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 12, 1994

RECEIVED
APR 15 34

Department of Water Resources
Eastern District Office

Robert L. Thomas
Lemhi Irrigation District
Rt 1, Box 112
Salmon, ID 83467

RE: APPLICATION FOR TRANSFER NOS. 4217, 4218 AND 4219 OF WATER
RIGHT NOS. A74-02165B, 74-00827 AND 74-00738 IN THE NAME OF
STEPHENSON HEREFORD RANCH, INC.

Dear Mr. Thomas:

I am addressing this letter to you as the designated contact
for the protestants in the above referenced matter.

The purpose of this letter is merely a reminder that on
December 20, 1993, the department issued an order delaying the
hearing in the protested matter for one (1) irrigation season at
the request of the protestants. The requested delay was "to allow
for the gathering, compilation and analysis of data relative to
percolation and return flows to the Lemhi River."

I trust such data gathering is underway or will be shortly,
since it is unlikely the department will delay the scheduling of a
hearing beyond that already approved.

Sincerely,

A handwritten signature in dark ink, appearing to read 'L. Glen Saxton', is written over a horizontal line.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Stephenson Hereford Ranch
Bob Loucks - Lemhi County Agent
Milton Slavin
IDWR - E. Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED

OCT 13 1994

Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
TRANSFER NOS. 4217, 4218 AND 4219)
OF WATER RIGHT NOS. A74-02165B,)
74-00827 AND 74-00738 IN THE NAME)
OF STEPHENSON HEREFORD RANCH, INC)
_____)

ORDER FOR PREHEARING
STATEMENTS

In order to prepare and schedule the above captioned contested matter for hearing before the department of Water Resources,

IT IS HEREBY ORDERED, pursuant to Rule of Procedure IDAPA 37.01.01510 (Rule 510) that each party file with the Hearing Officer and serve upon the other parties of record a Prehearing Statement responding to the following items:

1. The issues to be resolved, and the statutes, rules, and legal precedent involved;
2. A brief statement of the facts and reasons supporting your position on each matter in dispute;
3. A list of proposed witnesses;
4. Whether you wish to pursue discovery and, if so, the estimated length of time required;
5. Requested location of hearing;
6. Estimated length of hearing;
7. If you do not have an attorney, your home and business addresses and telephone numbers;
8. The date by which you will be ready to have a hearing in this matter; and
9. Other related matters.

IT IS FURTHER ORDERED that you must file the Prehearing Statement with the hearing officer and serve it upon all parties of record within thirty (30) days of the date of this ORDER.

Dated this 7th day of October, 1994.


L. GLEN SAXTON
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7th day of October, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER FOR PREHEARING STATEMENTS to the following:

Milt Slavin
Attorney at Law
PO Box 1103
Salmon, ID 83467

Stephenson Hereford Ranch
Rt 1 Box 72
Salmon, ID 83467

Town Ditch Users
Rt 1 Box 89A
Salmon, ID 83467

John & Lynn Herbst
PO Box 21
Tendoy, ID 83468

Nicholas & Cheryl Fosmo
PO Box 8
Salmon, ID 83467

Quinton Snook
Rt 1 Box 49
Salmon, ID 83467

Florence & Rodger Swanson
Rt 1 Box 45
Salmon, ID 83467

Bob Thomas
Lemhi Irrigation Dist
Rt 1 Box 112
Salmon, ID 83467

Paul Fisher
Water Dist 74
Rt 1 Box 88
Salmon, ID 83467

Dan & Eileen French
Charles Shiner
Rt 1 Box 94
Salmon, ID 83467

Shiner Ranch Inc
Box 26
Lemhi, ID 83465

Phillip Goodell
Rt 1 Box 85
Salmon, ID 83467

Mark Phillips
607 E Confederate
Salmon, ID 83467

Ray & Jim Skinner
Rt 1 Box 27
Salmon, ID 8346

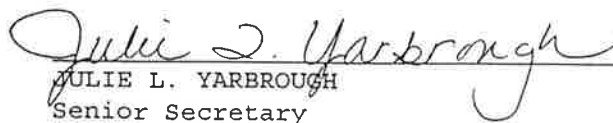
Ben Allen
PO Box 33
Lemhi, ID 83465

Franklin Jack Powers
Leadore, ID 83464

Gordon Daniels
PO Box 1472
Salmon, ID 83467

LaMar Cockrell
Rt 1 Box 9
Salmon, ID 83467

Ray Rigby
PO Box 250
25 N 2nd E
Rexburg, ID 83440


JULIE L. YARBROUGH
Senior Secretary

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 4219

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Stephenson Hereford Ranch Inc. Phone 756-4109
Post Office address Rt1 Box 72, Salmon, Id. 83467

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 Change place of use to Better ground

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
74-0738 6-1-1880 11.46 cfs Irrigation 3/15 to 11/15

_____ to _____
_____ to _____
_____ to _____
2. Total amount of water being transferred 11.46 cfs cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Lemhi River tributary to Salmon River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NW	3	20N	23E	Lemhi	Baker Ditch (L-13)

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	
20N	23E	4		3	26		31	18	32	30	36	24		25		38	25		288.8
				L2			L3	L4											
		5	18		2	39								34					93
			L1																

Total acres 381.8

PART 1**6. General Information:**

a. Description of diversion system Baker ditch to pumps to mainlines to two center pivots and laterals with sprinklers

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:

None - will transfer 74-02165 (11-6-1913) ; 74-0827 (8-17-1915)
to the remaining place of use of 74-0738

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. 74-0738 Decreed to E.P. or Eleanor Reese

in case of _____ 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 Lemhi River tributary to _____

4. Date or priority 6-1-1880

5. Water is used for the following purpose:

amount 11.46 cfs for Irrigation purposes from 3/15 to 4/15

(cfs/ac-ft) _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft) _____ for _____ purposes from _____ to _____

6. Total amount of water under right _____ 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
		SE	NW	3	20N	23E	Lemhi	Baker Ditch (L-13)

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	
20N	23E	3						L4											5.9
		4	L1	L2			L3	L4											142.2
		5	34.7	39.6	3	0.7	37.3	26.9											7.5
			7.5																
21N	23E	32									1.6		3.7	18.3	30	15.8	29.5	39.5	138.4
		33									1.3	21.0	40	20.6			4.9		87.8

Total acres 381.8

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

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of 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 _____ for _____ purposes from _____ to _____
 (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

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	

Total acres _____

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

1. amount _____ for _____ purposes from _____ to _____
 (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

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	

Total acres _____

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

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

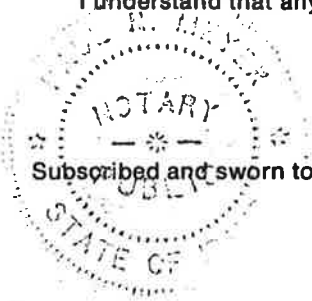
1	<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
				to _____
				to _____

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.



Subscribed and sworn to before me this

12th

day of

June

, 19 92.

Gordon Stephenson Pres
(Signature of Applicant)

[Signature]
(Notary Public)

My commission expires

9-12-94

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Assisted by

Received by

Kaw

Date

12 June 1992

Protest filed by

Prelim. check by

Fee

50⁰⁰ #E012492

Receipted by

Kaw

Date

12 June 1992

Published in

Recorder Herald

Copies of protest forwarded by

Pub. dates

7-9 : 16-92

Hearing held by

Date

Watermaster recommendation requested on

Recommended for

☐

approval

☐

denial

rec'd.

by

Copy of transfer sent to lien holder

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant Stephenson Hereford Ranch Inc Phone 756-4109
 Post Office address Rt 1 Box 72 Salmon Id 83467

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 Change place of use for the 1915 right to less productive ground

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
A 74-0827	8-17-1915	8.14	Irrigation	3/15 to 11/15
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 8.14 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Lemhi River tributary to Salmon River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NW	3	20N	23E	Lemhi	Baker Ditch (L-13)

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	
20N	23E	4	27.7	33.5	3	0.7	6.3												71.2
			L1	L2			L3												
21N	23E	33									1.3	21.0	32	30			13	13	116.3
		32									1.6		3.7	18.3	29.3	14.8	14	8.1	89.8

Total acres 271.3

PART 1**6. General Information:****a. Description of diversion system**

Baker ditch to pumps to mainline to laterals
with sprinklers

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:**

None- Right 74-0738 (6-1-1880) will be transferred to original
place of use.

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. A74-0827 Decreed to Tolley, Eldon & Edna Z.
 in case of _____ 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 Lemhi River tributary to Salmon River
4. Date or priority 8-17-1915

5. Water is used for the following purpose:

amount 8.14 cfs for Irrigation purposes from 3/15 to 11/15
 (cfs/ac-ft) _____ for _____ purposes from _____ to _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____ for _____ purposes from _____ to _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

6. Total amount of water under right 8.14 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
		SE	NW	3	20N	23E	Lemhi	Baker Ditch (L-13)

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	
20N	23E	3										5.4							5.4
		4			26.7	11.6		2.4	40	26.1	20				238	375	15.3		207.3
		5		17.9	0.7	40													58.6

Total acres 271.3

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

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of 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 _____ for _____ purposes from _____ to _____
 (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

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	

Total acres _____

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

1. amount _____ for _____ purposes from _____ to _____
 (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

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	

Total acres _____

T2IN
T2ON

OV. LOT 4

BAKER
(Ditch)

POINT OF
DIVERGENCE

11

⑪

DRY

4. OT

40.0

④

 $\ominus$ $\ominus$ $\ominus$

④

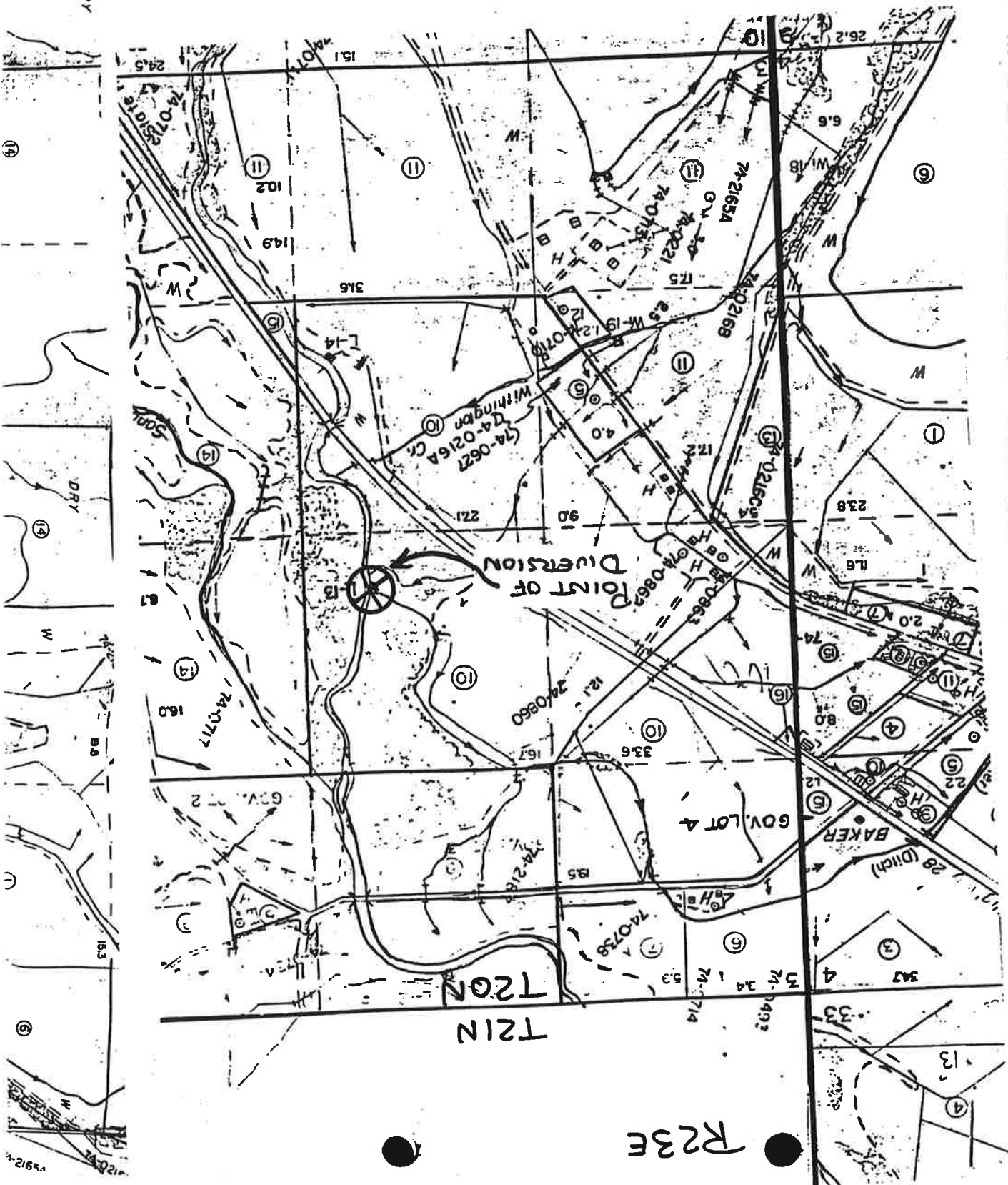
14

2

;

©

7-2165A



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

1	<u>New Nature of Use</u>	<u>Amount</u> (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.

Subscribed and sworn to before me this 12th day of June, 1992.

Paul R. Meyer

 (Notary Public)

My commission expires 7-12-94

London Stephens
 (Signature of Applicant)

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by Kaw Date 12 June 1992 Protest filed by _____

Prelim. check by _____ Fee 50⁰⁰ E617492

Received by Kaw Date 12 June 1992

Published in Recorder Herald Copies of protest forwarded by _____

Pub. dates 7-9-16-92 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

S.O. 9-7-93 Mem Dec

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Stephenson Hereford Ranch Inc. Phone 756-4109
Post Office address Rt 1 Box 72 Salmon ID 83467

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 Change place of use for this 1913 right
to less productive ground

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
A 74-216SB	11-C-19B	2.08	Irrigation	3/15 to 4/15
				to
				to
				to

2. Total amount of water being transferred 2.08 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Lemhi River tributary to Salmon River

4. Point(s) of Diversion:

[illegible]

5. Lands irrigated or place of use:

[illegible]

PART 1**6. General Information:**

- a. Description of diversion system Baker ditch to pump to mainline with laterals
with sprinklers
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgage contracts? ☒ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed, 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:
None - Right 74-0738 (6-1-1880) will be transferred to origin
place of use
- 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. A 74-216SB Decreed to Jolley, Eldon or Edna Z
in case of _____ 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 Lemhi River tributary to Salmon River

4. Date or priority 11-6-1913

5. Water is used for the following purpose:

amount 2.08 cfs for Irrigation purposes from 3/15 to 11/15
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 2.08 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
		SE	NW	3	20N	23E	Lemhi	Baker Ditch (L-13)

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	
20N	23E	4									9.8	24.9		19.8					54.5
		5															37.6		33.6

Total acres 88.1

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

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of 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 _____ for _____ purposes from _____ to _____
 (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

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	

Total acres _____

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

1. amount _____ for _____ purposes from _____ to _____
 (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

3. Lands irrigated or place of use:

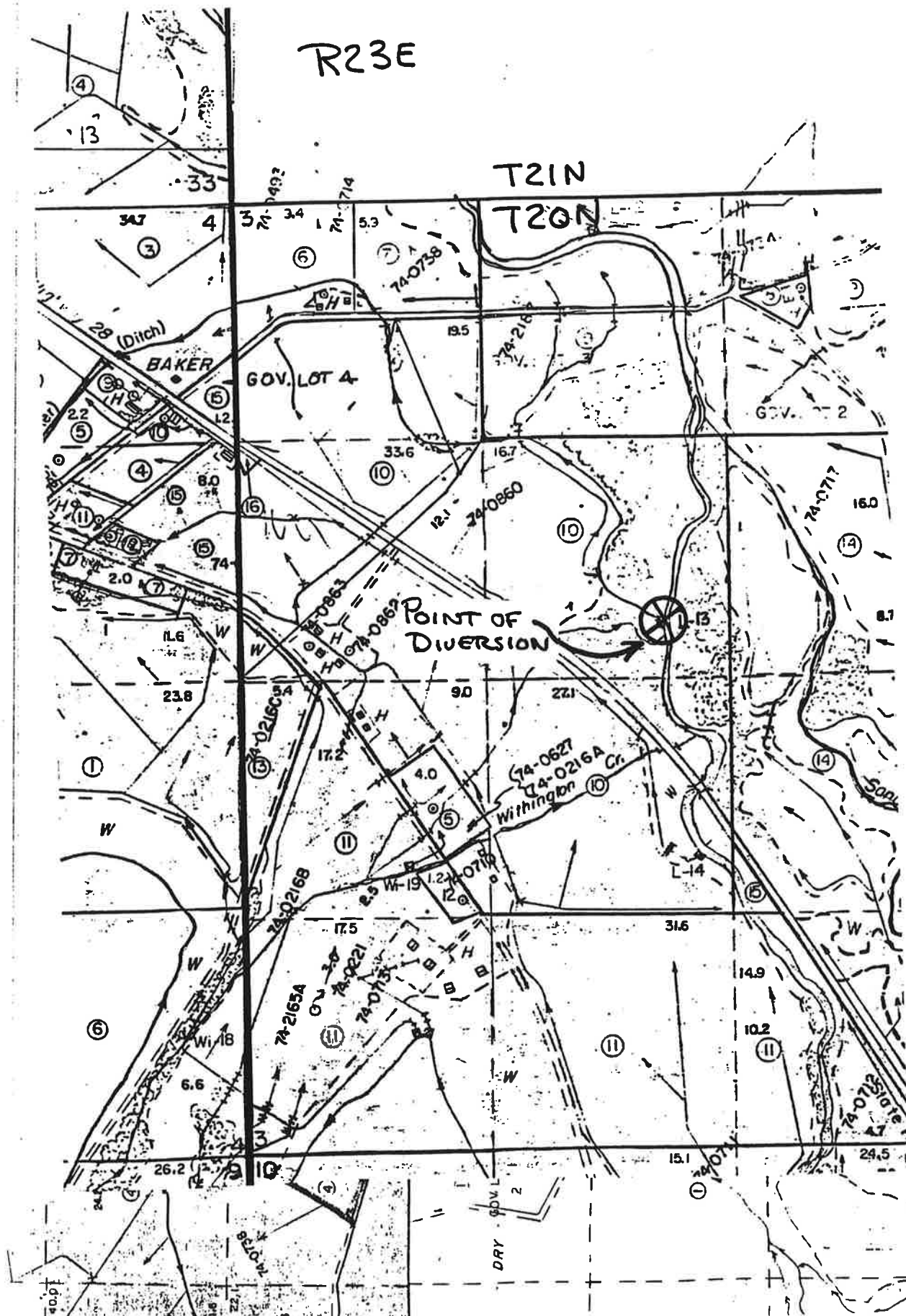
Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

R23E

T21N

T20N



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

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

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				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.

Subscribed and sworn to before me this

12th

day of

JUNE

, 19 92.

(Signature of Applicant)

Jordan S. Stephenson Pres

[Signature]

(Notary Public)

My commission expires

9-12-94

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Assisted By

Received by

KCW

Date

12 June 1992

Protest filed by _____

Prelim. check by _____

Fee

50⁰⁰ # E017492

Receipted by

KCW

Date

12 June 1992

Published in

Recorder Herald

Copies of protest forwarded by _____

Pub. dates

7-9 & 16-92

Hearing held by _____

Date _____

Watermaster recommendation requested on _____

Recommended for



approval



denial

rec'd. _____

by _____

Copy of transfer sent to lien holder _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7881

RECEIVED

OCT 06 1993

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 6, 1993

Department of Water Resources
Eastern District Office

Re: In the matter of Application for Transfer Nos. 4217, 4218, and 4219 of water right nos. 74-00738, 74-00827, and A74-02165B in the name of Stephenson Hereford Ranch Inc.

Dear Interested Party:

The accompanying order is a "recommended order" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the recommended order shall be served on all other parties to these proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,

L. Glen Saxton
Chief, Water Allocation Bureau

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NOS. 4217, 4218, 4219)
OF WATER RIGHT NOS. A74-02165B,)
74-00827, 74-00738 IN THE NAME)
OF STEPHENSON HEREFORD RANCH,)
INC.)
_____)

RECOMMENDED ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of protested applications for transfer, the department having held a conference in the matter and the parties having agreed to allow the department to issue a recommended order based on information presented at the conference and upon information in department files and records, the Director of the department makes the following Findings of Fact, Conclusions of Law, Analysis and Order:

FINDINGS OF FACT

1. Water right no. 74-02165B was decreed in the case of The State of Idaho v. Mary A. Adams, et al in Civil Case No. 4948 on December 30, 1982 as follows:

Source: Lemhi River at diversion L-22 located in the
SE1/4NE1/4 Section 25, T20N, R23E, B.M.
Priority: November 6, 1913
Rate: 2.08 cfs
Use: Irrigation of 88.1 acres in parts of Sections 4
and 5, T20N, R23E, B.M.

The Snake River Basin Adjudication claim filed on this right (A74-02165B) claims Lemhi River diversion L-13 as the point of diversion under Section 42-1416A, Idaho Code, which is commonly referred to as the "accomplished transfer" statute.

2. Water right no. 74-00827 was decreed in Civil Case No. 4948 as follows:

Source: Lemhi River at diversion L-13 located in the
SE1/4NW1/4 Section 3, T20N, R23E, B.M. (Changed by
prior transfer no. 1772).
Priority: August 17, 1915
Rate: 8.14 cfs
Use: Irrigation of 271.3 acres in parts of Sections 3, 4
and 5, T20N, R23E, B.M.

3. Water right no. 74-00738 was decreed in Civil Case No.

4948 as follows:

Source: Lemhi River at diversion L-13.
Priority: June 1, 1880
Rate: 11.46 cfs
Use: Irrigation of 381.8 acres in parts of Sections 3, 4, and 5, T20N, R23E, B.M. and in parts of Sections 32 and 33, T21N, R23E, B.M.

4. On June 12, 1992, Stephenson Hereford Ranch (applicant) submitted three (3) applications for Transfer of water right nos. 74-02165B, 74-00827 and 74-00738 to the department. The applications propose to change the place of use of the rights on lands owned by the applicant. The changes essentially switches the place of use of a senior right and two (2) junior rights. The amount of land to be irrigated under the rights is the same as before the proposed transfer.

5. Notice of the applications was published in the Recorder-Herald in Lemhi County on July 9 and 16, 1992. The applications were timely protested by John and Lynn Herbst and by certain Town Ditch Users. The Town Ditch diverts water from the Lemhi River at Lemhi River diversion L-7.

6. On August 11, 1993, the department conducted a conference to discuss the issues of protest. The protestants were concerned that the proposed transfers would result in reduced recharge to the Lemhi River for use by other downstream diversions. The protestants also contend that a study entitled Lemhi River Habitat Improvement Study prepared for the Bonneville Power Administration by Ott Water Engineers, Inc. in 1985 (Ott Engineering Study) supports their position. The applicant contends that the proposed transfers will not change the recharge (return flow) pattern to the Lemhi River to any measurable degree.

7. The Ott Engineering Study describes and evaluates options to enhance (increase) the flow of the Lemhi River for the passage of anadromous fish and describes fishery management alternatives. The selected option (Option B) calls for the construction of permanent diversions, channelization and levees at Lemhi River diversions L-5, L-6 and L-7 and for the augmentation of river flow by improving flood irrigation efficiency (by changing practices) and by installing sprinkler systems. The study does not show that changes in place of use as proposed in the transfers will result in diminished return flow to the Lemhi River.

8. The use of water under the applicant's water rights has not been regulated by the watermaster of the Lemhi River until 1991 when water right no. 74-00827 was cut off for the first time.

9. The applicant does not plan to divert more water than diverted in the past or in excess of the water rights and does not plan to irrigate more or different land than authorized under the

three (3) water rights.

10. The water rights sought in the transfers are all diverted from the same Lemhi River diversion (L-13) and are all used on contiguous lands owned by the applicant.

11. The higher elevation land to which the applicant wants to move the most senior water right is more productive crop land than the lower elevation land contiguous to the Lemhi River. The higher land is irrigated by sprinkler.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, provides in pertinent part as follows:

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 consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

2. Section 42-203A, Idaho Code, defines local public interest as:

... the affairs of the people in the area directly affected by the proposed use ...

3. The proposed transfers will not injure other water rights.

4. The proposed transfers will not result in the enlargement in use of the water rights since the applicant does not plan to irrigate more acreage or divert more water than previously used.

5. Even though a number of water users both upstream from and downstream from the applicant's place of use have signed petitions opposing approval of the proposed transfers, the transfers are in the local public interest. The protestants have not raised substantive issues for consideration relative to public interest.

6. The proposed changes are consistent with the conservation of water resources within Idaho. The applicant's means of diversion, conveyance and application of water are similar to other practices in the Lemhi River drainage.

7. The department should approve the applications with certain conditions and limitations.

ANALYSIS

The concern expressed by the protestants is the potential of a precedent which might be set if the applications are approved. The protestants are concerned that extensive changes in the use of water rights throughout the Lemhi River drainage could change the recharge patterns to the Lemhi River.

While the number of protestants to the proposed transfers is an indication of local public interest, the protestants must show a substantive issue in connection with the local public interest. In this case, the proposed change will not change recharge to the Lemhi River to any measurable degree, since the lands are contiguous with minimal change in flow patterns and since the water rights involved in the transfers receive water most of the time.

Precedent is not a consideration before the department on whether or not to approve the present applications. The criteria to be considered by the department is clearly described in Section 42-222, Idaho Code, and consists of injury considerations, expansion of use considerations, local public interest and conservation of water considerations.

The department will have to consider any future proposed changes to water rights in the Lemhi drainage on a case-by-case basis with respect to the evaluation criteria of Section 42-222, Idaho Code, including substantive issues which may be raised in connection with the local public interest. Approval of these applications does not set binding precedent which will have to be followed in the future as suggested by the protestants.

The water rights sought to be transferred are private property of the applicant. If the applicant wishes to make changes to his private property provided the applicant does not violate the considerations described in Section 42-222, Idaho Code, the applicant should be allowed to do so.

ORDER

IT IS THEREFORE, hereby ORDERED that application for transfer nos. 4217, 4218 and 4219 of water right nos. A47-02165B, 74-00827 and 74-00738, respectively, be **APPROVED** subject to the following conditions and limitations:

1. Prior to diversion and use of water under this approval, the right holder shall provide for the measurement of water diverted in a manner acceptable to the watermaster and as approved by the department.

2. Approval of these transfers does not grant a right-of-way or easement for use of a diversion and/or delivery system owned by persons other than the right holder.

3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre for the lands above.

4. Approval of these transfers does not preclude the opportunity for the review of the validity of the rights in the ongoing Snake River Basin Adjudication.

5. Use of water under this approval is subject to the control of the watermaster of State Water District 74, the Lemhi River.

6. The use of Lemhi Diversion L-13 for the diversion of water right 74-02165B is authorized only if eventually confirmed in the Snake River Basin Adjudication.

7. The changes authorized by this approval shall be accomplished within one (1) year of the date of the Final Order issued by the department in this matter.

8. Failure to comply with the conditions of this approval is cause for the Director to rescind approval of the transfers.

Signed this 10th day of October, 1993.


L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Recommended Order to the following:

Milt Slavin
Attorney at Law
PO Box 1103
Salmon, ID 83467

Stephenson Hereford Ranch
Rt 1 Box 72
Salmon, ID 83467

Town Ditch Users
Rt 1 Box 89A
Salmon, ID 83467

John & Lynn Herbst
PO Box 21
Tendoy, ID 83468

Nicholas & Cheryl Fosmo
PO Box 8
Salmon, ID 83467

Quinton Snook
Rt 1 Box 49
Salmon, ID 83467

Florence & Rodger Swanson
Rt 1 Box 45
Salmon, ID 83467

Bob Thomas
Lemhi Irrigation Dist
Rt 1 Box 112
Salmon, ID 83467

Paul Fisher
Water Dist 74
Rt 1 Box 88
Salmon, ID 83467

Dan & Eileen French
Rt 1 Box 94
Salmon, ID 83467

Shiner Ranch Inc
Charles Shiner
Box 26
Lemhi, ID 83465

Phillip Goodell
Rt 1 Box 85
Salmon, ID 83467

Mark Phillips
607 E Confederate
Salmon, ID 83467

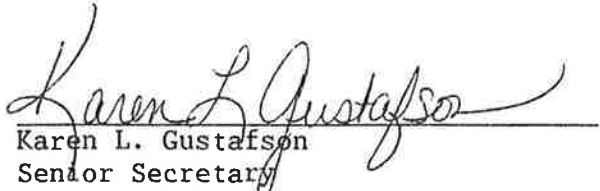
Ray & Jim Skinner
Rt 1 Box 27
Salmon, ID 8346

Ben Allen
PO Box 33
Lemhi, ID 83465

Franklin Jack Powers
Leadore, ID 83464

Gordon Daniels
PO Box 1472
Salmon, ID 83467

LaMar Cockrell
Rt 1 Box 9
Salmon, ID 83467


Karen L. Gustafson
Senior Secretary

