

**T4077 WOODIE LAND & LIVESTOCK**



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4077  
WATER RIGHT NO(S). 33-00097D/33-00100

This is to certify that: **WOODIE LAND & LIVESTOCK INC**  
**HC 65 BOX 1018**  
**HOWE ID 83244**

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> |
|-----------------------|----------------------|-----------------------|----------------------|
| Right No. 33-00097D : |                      |                       |                      |
| IRRIGATION            | 04/15 to 10/15       | 1.20 CFS              | 427.0 AF             |
| Priority: 04/15/1891  |                      |                       |                      |
| Right No. 33-00100 :  |                      |                       |                      |
| IRRIGATION            | 04/15 to 10/15       | 0.80 CFS              | 292.0 AF             |
| Priority: 04/15/1891  |                      |                       |                      |

SOURCE

DRY CREEK

TRIBUTARY OF

LITTLE LOST RIVER

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 32, Township 06N, Range 29E  
BUTTE County

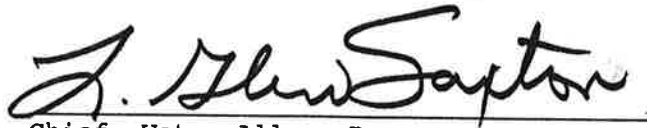
PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 06N                              | 29E        | 35         | NENE 38      | NWNE 29      | SWNE 16      |              |
|                                  |            |            | SENE 39      |              |              | 122          |
| Total number of acres irrigated: |            |            |              |              |              | 122          |

CONDITIONS/REMARKS:

Right Nos. 33-00097D and 33-00100 are subject to the conditions of the Final Order in the matter of Application for Transfer No. 4077.

Dated this 3rd day of November, 1993.

  
Chief, Water Alloc. Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of November, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Final Order to the following:

George Woodie  
Woodie Land Livestock  
HC 65 Box 1018  
Howe, ID 83244

Jeff C Fereday  
Givens Pursley Huntley  
PO Box 2720  
Boise, ID 83701

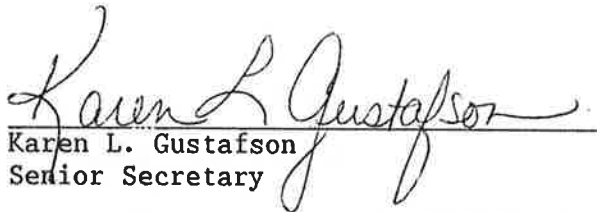
Randall C Budge  
Racine Olson Nye et al  
PO Box 1391  
Pocatello, ID 83204-1391

Mays Land & Livestock

Robert R Mays

Howe, ID 83244

HC 65 Box 2105  
Howe, ID 83244

  
Karen L. Gustafson  
Senior Secretary

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer No. 4077 of water rights 33-00097B and 33-00100 is **APPROVED** subject to the following conditions:

1. Use of water under this approval is subject to the control of the watermaster of Water District No. 33, Little Lost River and tributaries.

2. The right holder shall install and maintain measuring devices of a type approved by the department as a part of the diversion works or shall otherwise provide for the measurement of water diverted as approved by the department.

3. The right holder is required to maintain and use the shares owned in the Blaine County canal to the extent the shares are available for use. This transfer approval is null and void if the right holder sells or removes the shares in the Blaine County canal which are appurtenant to the place of use authorized by this transfer.

4. The watermaster is authorized to assess a delivery loss to the rights approved in this transfer and to deliver the rights less the assessed loss to the new point of diversion. The department and the watermaster shall determine the loss to be assessed based on actual measurements. Until such loss has been determined, the watermaster is authorized to assess losses consistent with past practice.

5. The rate of diversion under rights changed by this transfer when combined with all other rights for the irrigation of the same land shall not exceed 0.02 cfs per acre nor more than 4.0 afa per acre.

6. This approval does not grant a right-of-way or easement for the use of diversion works and/or conveyance works owned by persons other than the right holder.

7. Approval of this transfer does not preclude the opportunity for review of the validity of the water rights in the ongoing Snake River Basin Adjudication.

8. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind this approval.

Signed this 3<sup>rd</sup> day of NOVEMBER, 1993.

  
R. KEITH HIGGINSON, Director

10. The department's investigation of the use of water by Andreason as a part of the Snake River Basin Adjudication shows that Andreason has used the water rights proposed in the transfer for irrigation purposes.

11. The new place of use proposed in the transfer is irrigated by the applicant with twenty-five (25) shares of Blaine County Canal Company water which represents seventy-five (75) acre feet of water.

#### 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. The transfer will not injure other water rights if appropriate conveyance losses are assessed to the rights proposed in the application.

3. The proposed transfers change the place of use of supplemental water rights to be used as supplemental water rights on different land. Approval of the application will not result in an enlargement in use if the approval is appropriately conditioned.

4. Investigation by the department of water use in the drainage in connection with the Snake River Basin Adjudication shows that the water rights sought for transfer have not been forfeited through non-use.

5. Specific information relative to return flows of water from the use of the water rights is not available to review and consider in this matter. If a change was involved, it has already occurred, since the conversion to the use of ground water by Andreason was completed over a period of time and is complete.

6. The change is not against the local public interest since a number of changes similar to the one proposed have occurred in the Little Lost River basin in the past without the filing of an application for transfer as required by statute.

7. The change is consistent with conservation of water resources in the state of Idaho.

8. The department should approve the transfer with certain conditions and limitations.

land. For several years, however, Andreason has been converting his irrigation system to use only ground water.

4. On January 24, 1993, the applicant submitted application for transfer no. 4077 (application) to the department to change the point of diversion and place of use of water rights A33-00097B and A33-00100 which were acquired from James Andreason. The application proposes to change the point of diversion and place of use to a location approximately 26 miles downstream from the last authorized place of use and to divert the water from the Little Lost River. Use of the water would be on land which is irrigated with other water rights.

5. On March 18 and 25, 1993, the department published notice of the application for transfer in the Arco Advertiser. The application was subsequently protested by Mays Land & Livestock, Inc. and by Robert R. Mays.

6. On June 15, 1993, the department conducted a conference in the matter in Arco, Idaho. George Woodie was present and represented the applicant. Protestant Mays Land & Livestock, Inc. was represented by Michael C. Creamer and protestant Robert Mays was represented by Randall C. Budge. At the conference, the parties agreed to allow the department to issue a recommended order based on information presented at the conference and on information in the department's files and records provided the department consider the following:

- a) Potential channel losses.
- b) Changes in return flows which could impact other users.
- c) Potential expansion in use.
- d) Forfeiture or partial forfeiture of the rights.

7. The watermaster of Water District 33, has not treated Dry Creek as a tributary to the Little Lost River for the purpose of water distribution. This practice has been followed since Dry Creek rarely reached the Little Lost River until the Dry Creek flume was constructed in 1967 and the Dry Creek hydro project was later constructed. The watermaster has since delivered Dry Creek water as "developed water" ahead of all Little Lost River rights and has charged losses for delivery of the rights. This loss of up to 40% was determined at an annual water district meeting held in 1966 and was to be used and has been used until actual conveyance losses could be more accurately determined.

8. Some reaches of the little Lost River lose water while other reaches gain water.

9. In 1992, the applicant submitted an application for transfer (no. 3997) which was ultimately withdrawn from further consideration before the department.

R27E, BM.

Comment: This part of the original right is identified as 33-00097B.

- iii) Adjudication claim no. A33-00097B claims the right as follows:

Source: Dry Creek

Amount: 3.2 cfs

Point of diversion: NE1/4SW1/4 Section 12, T10N, R26E, BM.  
and NE1/4SW1/4 Section 20, T10N, R27E, BM.

Place of use: E1/2SE1/4 Section 13, NE1/4NE1/4 Section 24, T10N, R26E, BM.; SW1/4SW1/4, SE1/4SW1/4 Section 18, NE1/4NW1/4, NW1/4NW1/4, SW1/4NW1/4, SE1/4NW1/4 Section 19, NE1/4SW1/4, SE1/4SW1/4, Section 20, T10N, R27E, BM. (342 acres)

2. Water right no. 33-00100 was also decreed in the case of Blaine County Investment Co. v. Robert G. Mays et al. and provided for the diversion of 0.80 cfs of water from Dry Creek to be diverted at the Dry Creek dam. The place of use is E1/2NE1/4, NW1/4NE1/4 Section 19, SW1/4NW1/4 Section 20, T10N, R27E, BM. The priority of use is April 15, 1891.

- i) Transfer No. 843 approved by the department on March 1, 1955, changed water right no. 33-00100 as follows:

Source: Dry Creek

Point of diversion: NW1/4NE1/4 Section 19, T10N, R27E, BM.

Place of use: NW1/4NE1/4, S1/2NW1/4, SW1/4NE1/4, E1/2SW1/4, W1/2SE1/4, Section 29, T10N, R27E, BM.

- ii) Transfer No. 943 approved by the department on June 27, 1960, further changed the right as follows:

Source: Dry Creek

Point of diversion: SE1/4NE1/4 Section 16, T9N, R27E, BM.

Place of use: NE1/4NW1/4, W1/2NE1/4, NW1/4SE1/4, Section 21, T9N, R27E, BM.

- iii) Adjudication claim no. A33-00100 claims the right as follows:

Source: Dry Creek

Point of diversion: SE1/4NE1/4 Section 16, T9N, R27E, BM.

Place of use: NW1/4NE1/4, SW1/4NE1/4, NW1/4SE1/4, SW1/4SE1/4, Section 21, T9N, R27E, BM.

3. In 1992, James Andreason sold to Woodie Land & Livestock Company (applicant) all his interest in water right no. A33-00100 and about 37.7% of water right no. A33-00097B. Andreason has used the rights together with ground water for the irrigation of his

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION     )  
FOR TRANSFER NO. 4077 OF WATER    )  
RIGHT NOS. A33-00097B AND         )  
A33-00100 IN THE NAME OF WOODIE) )  
LAND & LIVESTOCK, INC.            )  
\_\_\_\_\_)

**FINAL ORDER**

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

**FINDINGS OF FACT**

1. Water right no. 33-00097 was decreed in a case of Blaine County Investment Co. v. Robert G. Mays et. al. on March 4, 1927 and provided for the diversion of 6.4 cubic feet per second (cfs) of water from Dry Creek to be diverted from Dry Creek dam. The priority of the right is April 15, 1891.

- i) Transfer No. 899 approved by the department on October 15, 1957 changed water right no. 33-00097 to be as follows:

Source: Dry Creek

Amount to be changed: all, i.e. 6.4 cfs.

Point of diversion: NE1/4NW1/4 Section 12, T10N, R26E,BM.

Place of use: S1/2SW1/4 Section 18, NW1/4 Section 19, E1/2SE1/4 Section 29, NE1/4NE1/4 Section 32, NW1/4NW1/4, S1/2NW1/4, E1/2SW1/4 Section 33, T10N, R27E,BM.

- ii) Transfer No. 1571 approved by the department on December 9, 1968, further changed the right as follows:

Source: Dry Creek

Amount to be changed: part, i.e. 3.2 cfs.

Point of diversion: No change, i.e. NE1/4NW1/4 Section 12, T10N, R26E,BM.

Place of use: Changed from the S1/2SW1/4 Section 18 and NW1/4 Section 19 to the E1/2 SE1/4 Section 13, NE1/4NE1/4 Section 24, T10N, R26E,BM., NW1/4NW1/4, S1/2NW1/4 Section 19, T10N,

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

#### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order. The department 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(4) Idaho Code.

#### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. Glen Saxton  
Chief, Water Allocation Bureau

4077  
RECEIVED

NOV 05 1993

November 3, 1993

Department of Water Resources  
Eastern District Office

Attached is a copy of the Final Order issued in connection with the application for transfer no. 4077 of Water Right Nos. A33-00097B and A33-00100 in the name of Woodie Land & Livestock Inc

Copies forwarded to

IDWR - Northern Region - Bob Haynes

IDWR - Southern Region - Loren Holmes

IDWR - Eastern Region - Ron Carlson

IDWR - Western Region - Dave Tuthill

Legal Division - Phil Rassier

Adjudication Bureau - Dave Shaw

Information Officer - Dick Larsen

Water Allocation Bureau - Glen Saxton

Karen Gustafson

Tim Luke

Pam Skaggs

Erv Ballou

George Austiguy

Darla Block

Brenda Chapman

Cindy Zimmerman

Carolyn Andregg

Jim Johnson

Donna Corless



**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

November 3, 1993

Re: In the matter of application for transfer no. 4077 of Water Right Nos. A33-00097B and A33-00100 in the name of Woodie Land and Livestock, Inc

Dear Interested Party:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or

(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7<sup>th</sup> day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Recommended Order to the following:

George Woodie  
Woodie Land Livestock  
HC 65 Box 1018  
Howe, ID 83244

Jeff C Fereday  
Givens Pursley Huntley  
PO Box 2720  
Boise, ID 83701

Randall C Budge  
Racine Olson Nye et al  
PO Box 1391  
Pocatello, ID 83204-1391

Mays Land & Livestock

Robert R Mays

Howe, ID 83244

HC 65 Box 2105  
Howe, ID 83244

  
Karen L. Gustafson  
Senior Secretary



No. 4077 of water rights 33-00097B and 33-00100 is APPROVED subject to the following conditions:

1. Use of water under this approval is subject to the control of the watermaster of Water District No. 33, Little Lost River and tributaries.

2. The right holder shall install and maintain measuring devices of a type approved by the department as a part of the diversion works or shall otherwise provide for the measurement of water diverted as approved by the department.

3. The right holder is required to maintain and use the shares owned in the Blaine County canal to the extent the shares are available for use. This transfer approval is null and void if the right holder sells or removes the shares in the Blaine County canal which are appurtenant to the place of use authorized by this transfer.

4. The watermaster is authorized to assess a delivery loss to the rights approved in this transfer and to deliver the rights less the assessed loss to the new point of diversion. The department and the watermaster shall determine the loss to be assessed based on actual measurements. Until such loss has been determined, the watermaster is authorized to assess losses consistent with past practice.

5. The rate of diversion under rights changed by this transfer when combined with all other rights for the irrigation of the same land shall not exceed 0.02 cfs per acre nor more than 4.0 afa per acre.

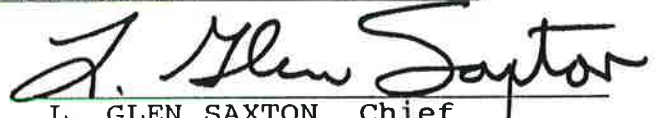
6. This approval does not grant a right-of-way or easement for the use of diversion works and/or conveyance works owned by persons other than the right holder.

7. Approval of this transfer does not preclude the opportunity for review of the validity of the water rights in the ongoing Snake River Basin Adjudication.

8. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind this approval.

Signed this 7th day of October, 1993.

  
L. GLEN SAXTON, Chief  
Water Allocation Bureau



for irrigation purposes.

11. The new place of use proposed in the transfer is irrigated by the applicant with twenty-five (25) shares of Blaine County Canal Company water which represents seventy-five (75) acre feet of water.

#### 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. The transfer will not injure other water rights if appropriate conveyance losses are assessed to the rights proposed in the application.

3. The proposed transfers change the place of use of supplemental water rights to be used as supplemental water rights on different land. Approval of the application will not result in an enlargement in use if the approval is appropriately conditioned.

4. Investigation by the department of water use in the drainage in connection with the Snake River Basin Adjudication shows that the water rights sought for transfer have not been forfeited through non-use.

5. Specific information relative to return flows of water from the use of the water rights is not available to review and consider in this matter. If a change was involved, it has already occurred, since the conversion to the use of ground water by Andreason was completed over a period of time and is complete.

6. The change is not against the local public interest since a number of changes similar to the one proposed have occurred in the Little Lost River basin in the past without the filing of an application for transfer as required by statute.

7. The change is consistent with conservation of water resources in the state of Idaho.

8. The department should approve the transfer with certain conditions and limitations.

#### ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer



4. On January 24, 1993, the applicant submitted application for transfer no. 4077 (application) to the department to change the point of diversion and place of use of water rights A33-00097B and A33-00100 which were acquired from James Andreason. The application proposes to change the point of diversion and place of use to a location approximately 26 miles downstream from the last authorized place of use and to divert the water from the Little Lost River. Use of the water would be on land which is irrigated with other water rights.

5. On March 18 and 25, 1993, the department published notice of the application for transfer in the Arco Advertiser. The application was subsequently protested by Mays Land & Livestock, Inc. and by Robert R. Mays.

6. On June 15, 1993, the department conducted a conference in the matter in Arco, Idaho. George Woodie was present and represented the applicant. Protestant Mays Land & Livestock, Inc. was represented by Michael C. Creamer and protestant Robert Mays was represented by Randall C. Budge. At the conference, the parties agreed to allow the department to issue a recommended order based on information presented at the conference and on information in the department's files and records provided the department consider the following:

- a) Potential channel losses.
- b) Changes in return flows which could impact other users.
- c) Potential expansion in use.
- d) Forfeiture or partial forfeiture of the rights.

7. The watermaster of Water District 33, has not treated Dry Creek as a tributary to the Little Lost River for the purpose of water distribution. This practice has been followed since Dry Creek rarely reached the Little Lost River until the Dry Creek flume was constructed in 1967 and the Dry Creek hydro project was later constructed. The watermaster has since delivered Dry Creek water as "developed water" ahead of all Little Lost River rights and has charged losses for delivery of the rights. This loss of up to 40% was determined at an annual water district meeting held in 1966 and was to be used and has been used until actual conveyance losses could be more accurately determined.

8. Some reaches of the little Lost River lose water while other reaches gain water.

9. In 1992, the applicant submitted an application for transfer (no. 3997) which was ultimately withdrawn from further consideration before the department.

10. The department's investigation of the use of water by Andreason as a part of the Snake River Basin Adjudication shows that Andreason has used the water rights proposed in the transfer



Comment: This part of the original right is identified as 33-00097B.

- iii) Adjudication claim no. A33-00097B claims the right as follows:

Source: Dry Creek

Amount: 3.2 cfs

Point of diversion: NE1/4SW1/4 Section 12, T10N, R26E, BM.  
and NE1/4SW1/4 Section 20, T10N, R27E, BM.

Place of use: E1/2SE1/4 Section 13, NE1/4NE1/4 Section 24, T10N, R26E, BM.; SW1/4SW1/4, SE1/4SW1/4 Section 18, NE1/4NW1/4, NW1/4NW1/4, SW1/4NW1/4, SE1/4NW1/4 Section 19, NE1/4SW1/4, SE1/4SW1/4, Section 20, T10N, R27E, BM. (342 acres)

2. Water right no. 33-00100 was also decreed in the case of Blaine County Investment Co. v. Robert G. Mays et al. and provided for the diversion of 0.80 cfs of water from Dry Creek to be diverted at the Dry Creek dam. The place of use is E1/2NE1/4, NW1/4NE1/4 Section 19, SW1/4NW1/4 Section 20, T10N, R27E, BM. The priority of use is April 15, 1891.

- i) Transfer No. 843 approved by the department on March 1, 1955, changed water right no. 33-00100 as follows:

Source: Dry Creek

Point of diversion: NW1/4NE1/4 Section 19, T10N, R27E, BM.

Place of use: NW1/4NE1/4, S1/2NW1/4, SW1/4NE1/4, E1/2SW1/4, W1/2SE1/4, Section 29, T10N, R27E, BM.

- ii) Transfer No. 943 approved by the department on June 27, 1960, further changed the right as follows:

Source: Dry Creek

Point of diversion: SE1/4NE1/4 Section 16, T9N, R27E, BM.

Place of use: NE1/4NW1/4, W1/2NE1/4, NW1/4SE1/4, Section 21, T9N, R27E, BM.

- iii) Adjudication claim no. A33-00100 claims the right as follows:

Source: Dry Creek

Point of diversion: SE1/4NE1/4 Section 16, T9N, R27E, BM.

Place of use: NW1/4NE1/4, SW1/4NE1/4, NW1/4SE1/4, SW1/4SE1/4, Section 21, T9N, R27E, BM.

3. In 1992, James Andreason sold to Woodie Land & Livestock Company (applicant) all his interest in water right no. A33-00100 and about 37.7% of water right no. A33-00097B. Andreason has used the rights together with ground water for the irrigation of his land. For several years, however, Andreason has been converting his irrigation system to use only ground water.



BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION )  
FOR TRANSFER NO. 4077 OF WATER )  
RIGHT NOS. A33-00097B AND )  
A33-00100 IN THE NAME OF WOODIE )  
LAND & LIVESTOCK, INC. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

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

FINDINGS OF FACT

1. Water right no. 33-00097 was decreed in a case of Blaine County Investment Co. v. Robert G. Mays et. al. on March 4, 1927 and provided for the diversion of 6.4 cubic feet per second (cfs) of water from Dry Creek to be diverted from Dry Creek dam. The priority of the right is April 15, 1891.

- i) Transfer No. 899 approved by the department on October 15, 1957 changed water right no. 33-00097 to be as follows:

Source: Dry Creek

Amount to be changed: all, i.e. 6.4 cfs.

Point of diversion: NE1/4NW1/4 Section 12, T10N, R26E, BM.

Place of use: S1/2SW1/4 Section 18, NW1/4 Section 19, E1/2SE1/4 Section 29, NE1/4NE1/4 Section 32, NW1/4NW1/4, S1/2NW1/4, E1/2SW1/4 Section 33, T10N, R27E, BM.

- ii) Transfer No. 1571 approved by the department on December 9, 1968, further changed the right as follows:

Source: Dry Creek

Amount to be changed: part, i.e. 3.2 cfs.

Point of diversion: No change, i.e. NE1/4NW1/4 Section 12, T10N, R26E, BM.

Place of use: Changed from the S1/2SW1/4 Section 18 and NW1/4 Section 19 to the E1/2 SE1/4 Section 13, NE1/4NE1/4 Section 24, T10N, R26E, BM., NW1/4NW1/4, S1/2NW1/4 Section 19, T10N, R27E, BM.