

T4437 ROSENKRANCE

4437
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JUL 03 1995

Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER OF WATER RIGHT NO. 34-04035B)
IN THE NAME OF LESTER K. ROSENKRANCE)
_____)

ORDER MODIFYING
CONDITION OF APPROVAL

WHEREAS, on January 13, 1995, the Department approved a transfer of Water Right No. 34-04035B with the following condition:

The well shall be cased with unperforated casing and sealed to a minimum depth of 150 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the well from entering the well.

and,

WHEREAS, the right holder has requested a waiver of this condition because the groundwater aquifer to be drilled is relatively shallow and the use of water to be made from the newly drilled well does not warrant drilling to a minimum of 150 feet; and,

WHEREAS, there appears to be a reasonable cause to modify the condition,

IT IS THEREFORE HEREBY ORDERED that the condition of approval requiring casing to a depth of 150 feet or the first confining layer is **MODIFIED** to read:

The well shall be cased with unperforated casing and sealed to a depth of 100 feet or the first confining layer, whichever is deeper. Both the owner and the well

driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the well from entering the well.

Dated this 29th day of June, 1995.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4437
WATER RIGHT NO. 34-04035B

RECEIVED
JAN 27 1995
Department of Water Resources
Eastern District Office

This is to certify that: **LESTER K ROSENKRANCE**
5347 E MICHELLE DR
SCOTTSDALE AZ 85252

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	04/15 to 10/15	0.28 CFS	49.0 AF

SOURCE

GROUNDWATER

Priority: 08/01/1960

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 35, Township 07N, Range 24E
CUSTER County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07N 24E 35	NWSW 1	SWSW 13		14
Total number of acres irrigated:				14

CONDITIONS/REMARKS:

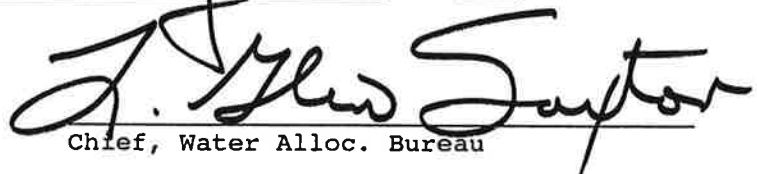
1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
4. The right holder shall use the full allotment of his surface water right, to the extent it is available, in conjunction with groundwater diverted pursuant to this right.
5. Approval of this transfer in no way confirms the right(s) claimed.

TRANSFER NO. 4437
WATER RIGHT NO. 34-04035B

CONDITIONS/REMARKS:

6. The well shall be cased with unperforated casing and sealed to a minimum depth of 150 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the well from entering the well.
7. The right holder shall notify the department at least five (5) days prior to the start of well construction in order that the department can observe the work.
8. The Director retains jurisdiction of this transfer in order to instruct the watermaster of Water District No. 34, Big Lost River, in the diversion and use of the right in order to protect prior water rights as determined by the Director.
9. The Director retains jurisdiction to require mitigation or reconstruction of the well if prior water rights are injured.
10. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
11. 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.
12. 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.
13. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
14. Use of this right with Right Nos. 34-00830B and 34-00227H is limited to a total combined diversion rate of 0.37 cfs, a total combined annual consumptive use volume of 35.0 af, and to the irrigation of a combined total of 14.0 acres in a single irrigation season.

Dated this 13th day of January, 1995.


Chief, Water Alloc. Bureau

MEMORANDUM

TO: FILE NO. 34-04035(B)

FROM: PAM SKAGGS²/STATE OFFICE

SUBJECT: TRANSFER NO. 4437

DATE: November 14, 1994

=====

Transfer No. 4437 was filed to change the point of diversion under a portion of Right No.34-04035 identified as R34-04035B on the AJ database. The R record represents an ownership split that has occurred following the SRBA Basin 34 Director's Report and this transfer is to provide a separate well for delivery of this portion of the right. No expansion occurs under this transfer.

Research of the database found no drilling permit and it appears that the new point of diversion will be constructed following the approval of this transfer. Special groundwater conditions for Basin 34 have been applied that address well construction, possible mitigation and the Director's jurisdiction to protect prior water rights.

Other recommended conditions include drilling permit requirements, watermaster control, irrigation overlap, groundwater/surface water overlaps, nonconfirmation of claim and standard transfer conditions.

Approved

Page _____ of _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 4437

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of applicant LESTER K ROSENKRANCE Phone (602) 493-8789
Post Office address 5347 E MICHELLE DR, SCOTTSDALE, AZ 85254

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 REFLECT CHANGE OF OWNERSHIP AND MOVE 4th
POINT OF DIVERSION TO APPLICANT'S LAND FOR DELIVERY OF HIS PORTION OF
34-04035

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>34-04035B</u> | <u>8-1-1960</u> | <u>0.28</u> | <u>IRRIGATION</u> | <u>4-15</u> to <u>10-15</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
2. Total amount of water being transferred 0.28 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water GROUNDWATER tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	NW	SW	35	7N	24E	CUSTER	

5. 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	
7N	24E	35										1	13						14

Total acres 14

PART 1

6. General Information:

- a. Description of diversion system WELL, PUMP, AND PIPELINES TO SPRINKLER SYSTEM
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X 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:
THIS TRANSFER REFLECTS PRORATA SHARE OF WATER RIGHT WHICH WILL BE
USED TO IRRIGATE THE SAME LAND FROM A NEW POINT OF DIVERSION.
- d. Remarks:
ORIGINAL PLACE OF USE HAS BEEN DIVIDED INTO SEVERAL SMALLER PARCELS,
WITH DIFFERENT OWNERSHIPS. WATER RIGHTS WERE DIVIDED ON A PRORATA
BASIS.

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. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 34-04035 - SRBA COURT 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 GROUNDWATER tributary to _____

4. Date or priority 8-1-1960

5. Water is used for the following purpose:

amount 1.94 cfs for IRRIGATION purposes from 4-15 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 1.94 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SW	NE	34	7N	24E	CUSTER	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	24E	34			10	12									32	16			70
		35										13	14						27

Total acres 97

9. Describe any other water rights used for the same purpose as described above 34-00830, 34-00227F

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 0.28 for IRRIGATION purposes from 4-15 to 10-15
 (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
	NW	SW	NE	34	7N	24E	CUSTER	

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	
7N	24E	35										1	13						14

Total acres 14

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

1. amount 1.66 for IRRIGATION purposes from 4-15 to 10-15
 (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
	NW	SW	NE	34	7N	24E	CUSTER	

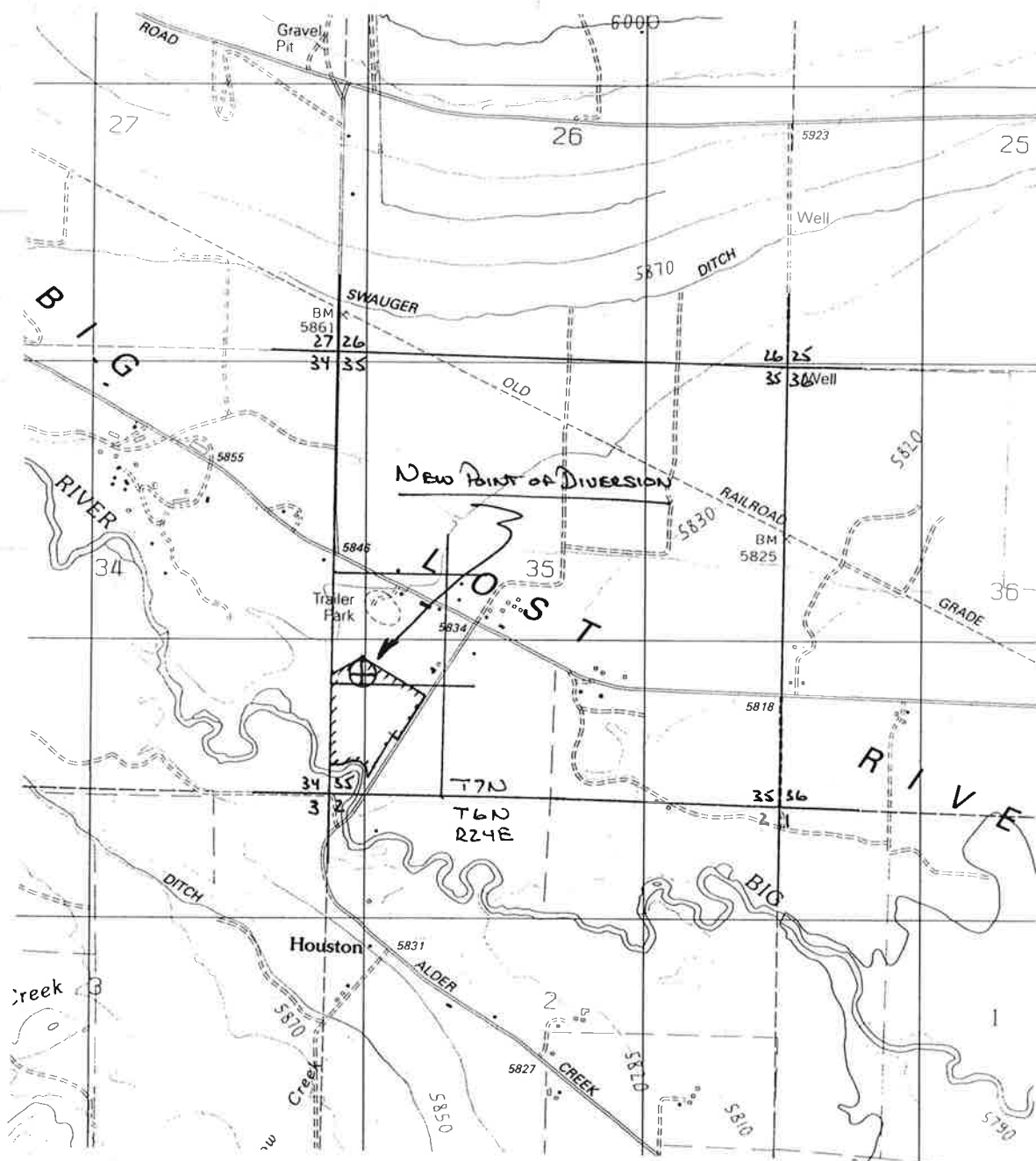
3. Lands irrigated or place of use:

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	
7N	24E	34			10	12									32	16			70
		35										12	1						13

Total acres 83

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

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



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

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

Stephen K. Rounkiewicz
(Signature of Applicant)

Subscribed and sworn to before me this 26 day of August, 19 94.

[Signature]
(Notary Public)

My commission expires 9-12-94

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by ARM Date 8-26-94 Protest filed by _____Prelim. check by _____ Fee \$100 E020211 _____Received by ARM Date 8-26-94 _____Published in Custer Publishing Co. Copies of protest forwarded by _____Pub. dates 9-15-92-94 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, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 27, 1995

MAR 30 1995

Department of Water Resources
Eastern District Office

Lester K. Rosenkrance
5347 E. Michelle Dr.
Scottsdale, AZ 85252

RE: APPLICATION FOR TRANSFER NO. 4437 OF WATER RIGHT NO. 34-04035B

Dear Mr. Rosenkrance:

On January 13, 1995, the department of Water Resources approved the above referenced transfer with certain conditions and limitations. One of the conditions of approval provides as follows:

The well shall be cased with unperforated casing and sealed to a minimum depth of 150 feet or to the first confining layer, whichever is deeper.

Dave Shaw of this office was contacted by Doug Rosenkrance who apparently, on your behalf, questioned the intent of the condition, since ground water generally can be found at a shallower depth.

Since about 1989, the department has used this condition on transfers which require construction of new irrigation wells. The purpose of the condition is to minimize the potential of interference between a new well and existing wells and between the new well and surface water sources.

The department is willing to consider changing the requirement of the condition if a right holder can show the department that such a change is appropriate. In order for the department to further evaluate changing the condition of approval, you need to provide some information including the following:

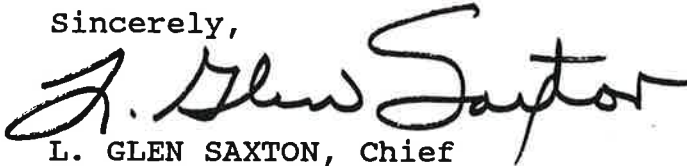
1. How close will your proposed well be to other existing wells and to any surface water sources? Describe the sources and locations. Please be specific.
2. Will your well be constructed in some manner to minimize or eliminate interference with other water rights? Explain.

3. Are you willing to be bound by provisions of the Water Distribution Rules which have been promulgated in Water District 34? These rules describe the relationship and interaction between water rights diverted from wells and rights diverted from surface water sources.

4. Are there other considerations which would justify changing the condition of approval? Describe.

Upon submittal of this information the department will further consider the conditions of the transfer approval.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - E. Region
Doug Rosenkrance
Jim Johnson
Dave Shaw



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 18, 2001

LESTER K ROSENKRANCE
1132 E MASTIFF ST
MERIDIAN ID 83642

RECEIVED

JUL 25 2001

Department of Water Resources
Eastern Region

Re: Transfer No. 4437

Dear Water Right Holder(s):

The Department of Water Resources (the department) has issued the enclosed preliminary order. Pursuant to Section 67-5243, Idaho Code, it can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208)327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures

✓Cc: Regional Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER)
NO. 4437 OF WATER RIGHT NO.)
34-04035B IN THE NAME OF)
LESTER K. ROSENKRANCE)
_____)

**PRELIMINARY ORDER
RESCINDING CONDITION OF
APPROVAL NO. 10**

On January 13, 1995, the Department issued Transfer No. 4437 in the name of Lester K. Rosenkrance with certain conditions of approval including the following:

10. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
11. 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.

On July 17, 2001, the right holder requested an extension of time in which to complete terms of the transfer describing unforeseen obstacles in project development including delay attributable to the Lost River Electrical Co-op in bringing power to the well site.

The right holder has shown reasonable cause for the department to rescind Condition of Approval No. 10 on Transfer No. 4437.

ORDER

IT IS THEREFORE, hereby ORDERED that Condition of Approval No. 10 on Transfer No. 4437 is hereby **RESCINDED**.

IT IS FURTHER HEREBY ORDERED that this order does not stay the five (5) year period of non-use for forfeiture of the water right as provided in Section 42-222(2), Idaho Code.

Signed this 18th day of July, 2001.


L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of July, 2001, the above and foregoing document was served upon the following by facsimile and by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

LES ROSENKRANCE
1132 E MASTIFF ST
MERIDIAN ID 83642

RON CARLSON
IDWR - EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department 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(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after a) the service date of a preliminary order, b) the service date of a denial of a petition for reconsideration from this preliminary order, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period 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.