

Eastern

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

AMENDED

AMENDED

TRANSFER NO. 4851

WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

RECEIVED

NOV 23 1998

Department of Water Resources
Eastern Region

This is to certify that: STEPHEN J MCGRATH
PO BOX 50731
IDAHO FALLS ID 83405

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. 23-00019D : IRRIGATION Priority: 04/15/1889	04/15 to 10/15	0.34 CFS	117.6 AF
Right No. 23-00020B : IRRIGATION Priority: 06/20/1889	04/15 to 10/15	0.34 CFS	123.4 AF
Right No. 23-00047D : IRRIGATION Priority: 05/15/1896	04/15 to 10/15	0.32 CFS	57.8 AF
Right No. 23-00093B : IRRIGATION Priority: 01/22/1916	04/15 to 10/15	1.00 CFS	157.5 AF
TOTAL:		* 2.00 CFS	* 157.5 AF

SOURCE

TRIBUTARY OF

RAINEY CREEK

SNAKE RIVER, SOUTH FORK

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 8, Township 01N, Range 44E
BONNEVILLE 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>
01N	44E	8	SWNW 30	SENW 15		45
Total number of acres irrigated:						** 45

TRANSFER NO. 4851
WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
2. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. 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.
5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
6. A lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- * 7. The total instantaneous diversion of water from all points of diversion under Transfer No. 4851 shall not exceed 2.00 cfs, nor total combined annual volume of 157.5 af.
- ** 8. Right 23-00019D is limited to the irrigation of 33.6 acres in the place of use described above in a single irrigation season.
- ** 9. Right 23-00047D is limited to the irrigation of 16.5 acres in the place of use described above in a single irrigation season.
- ** 10. Rights 23-00019D and 23-00047D when combined shall not exceed a total annual diversion volume of 117.6 af and the irrigation of 33.6 acres.
11. Rights 23-00019D, 23-00020B, 23-00047D and 23-00093B when combined shall not exceed a total diversion rate of 2.00 cfs, a total annual diversion volume of 157.5, and the irrigation of 45.0 acres.
12. Two points of diversion are located within the SWNW, S08, T01N, R44E.

Dated this 16th day of

November, 1998.


Chief, Water Allocation Bureau

MEMORANDUM

TO: FILES 23-00019A/00020/00047B/00093

FROM: PAM SKAGGS^{PS}/STATE OFFICE

SUBJECT: TRANSFER 4851

DATE: March 17, 1998

=====

Transfer 4851 changes the point of diversion under a portion of Rights 23-00019A (C & D), 23-00020 (A & B), 23-00047B (C & D), and 23-00093 (A & B), splitting each right.

Review of the recorded rights show that the transfer also represents a change in place of use to the historically irrigated land. The place of use has been modified over the years through unrecorded transfer to include the 45 acres under the proposed place of use. No physical change occurs.

The applicant is the new owner of this portion of the ranch and wants to add two separate points of diversion; a diversion ditch to serve the west side of the property and a pump to serve the east side of the property. The creek bisects the property in a north south direction.

Recommended conditions include watermaster control, measuring devices and lockable controlling works, irrigation overlap, multiple points of diversion, combined right conditions, and standard transfer conditions.

Eastern

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

RECEIVED

AUG 26 1998

Department of Water Resources
Eastern Region

TRANSFER NO. 4851
WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

This is to certify that: **STEPHEN J MCGRATH**
PO BOX 50731
IDAHO FALLS ID 83405

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. 23-00019D : IRRIGATION Priority: 04/15/1889	04/15 to 10/15		117.6 AF
Right No. 23-00020B : IRRIGATION Priority: 06/20/1889	04/15 to 10/15		123.4 AF
Right No. 23-00047D : IRRIGATION Priority: 05/15/1896	04/15 to 10/15	0.32 CFS	57.8 AF
Right No. 23-00093B : IRRIGATION Priority: 01/22/1916	04/15 to 10/15	1.00 CFS	157.5 AF
TOTAL:		* 1.00 CFS	* 157.5 AF

SUPERCEDED

SOURCE

RAINEY CREEK

TRIBUTARY OF

SNAKE RIVER, SOUTH FORK

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 8, Township 01N, Range 44E
BONNEVILLE 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>
01N	44E	8	SWNW 30.0	SENEW 15.0		45.0
Total number of acres irrigated:						** 45.0

TRANSFER NO. 4851
WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
2. 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 irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
7. A lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- * 8. The total instantaneous diversion of water from all points of diversion under Transfer No. 4851 shall not exceed 1.00 cfs, nor total combined annual volume of 157.5 af.
- ** 9. Right 23-00019D is limited to the irrigation of 33.6 acres in the place of use described above in a single irrigation season.
- ** 10. Right 23-00047D is limited to the irrigation of 16.5 acres in the place of use described above in a single irrigation season.
- ** 11. Rights 23-00019D and 23-00047D when combined shall not exceed a total annual diversion volume of 117.6 af and the irrigation of 33.6 acres.
12. Rights 23-00019D, 23-00020B, 23-00047D and 23-00093B when combined shall not exceed a total diversion rate of 1.00 cfs, a total annual diversion volume of 157.5, and the irrigation of 45.0 acres.
13. Two points of diversion are located within the SWNW, S08, T01N, R44E.

Dated this 24th day of August, 1998.


Chief, Water Allocation Bureau

\$100 Fee

SO 8-9-96

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 4851APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant Stephen J McGrath Phone (208) 524-0731
Post Office address PO Box 50731, Idaho Falls ID 83405

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 I'm purchasing part of a ranch and I want my own point of diversion to minimize ditch losses. I will have a ditch on the west side of creek and a pump on the east side. Both are in SW NW 5.08 T01N R44E.

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 _____
See Attached Sheet #1 _____ to _____
 _____ to _____
 _____ to _____
 _____ to _____
2. Total amount of water being transferred _____ cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Rainey Creek tributary to Snake River
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	8	1N	44E	Bonneville	Ditch & pump ("B" list) McGrath
		NE	SW	5	1N	44E	Bonneville	("A" list)

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	
"B" list	1N	44E	8						30	15									45
"A" list	1N	44E	5										30	35					65
			6														30		30
			7	8															8
			8	32	35														67

Total acres 215

PART 1

6. General Information:

- a. Description of diversion system Ditch and flood irrigation on west field and
a pump and sprinkler on the east field

N/A

- 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.

N/A

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

- d. Remarks:

To my knowledge, no portion of these water rights has undergone a
period of five or more consecutive years on non-use.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

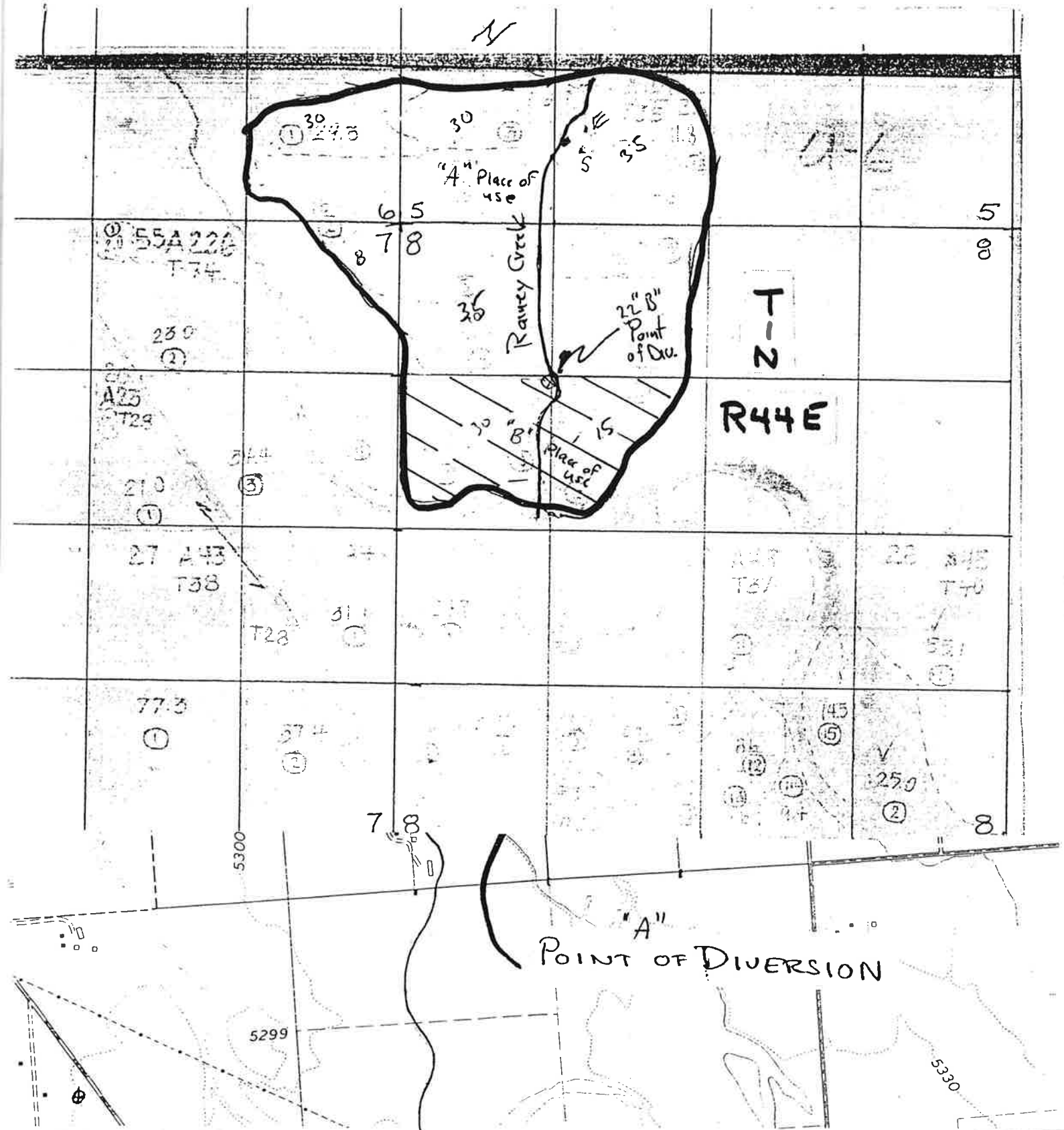
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

SHEET #1

	<u>RIGHT NUMBER</u>	<u>PRIORITY</u>	<u>AMT</u>	<u>NATURE</u>	<u>USE</u>	<u>PERIOD OF USE</u>
"B" LIST MCGRATH	23-00020B	6/20/1889	0.33 cfs	Irrigation		4-1 to 10-31
	23-00093B	1/22/1916	1.00	Irrigation		4-1 to 10-31
	23-00019D	4/15/1889	0.33	Irrigation		4-1 to 10-31
	23-00047D	5/15/1896	0.32	Irrigation		4-1 to 10-31
			1.98 cfs			
"A" LIST	23-00020A	6/20/1889	1.27 cfs	Irrigation		4-1 to 10-31
	23-00093A	1/22/1916	3.80	Irrigation		4-1 to 10-31
	23-00019C	4/15/1889	1.27	Irrigation		4-1 to 10-31
	23-00047C	5/15/1896	1.23	Irrigation		4-1 to 10-31
			7.57 cfs			

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



WARRANTY DEED

THIS INDENTURE, Made this 23 day of May, 1996, by and between RUDD MANAGEMENT CORPORATION, of 725 S. Woodruff, Idaho Falls, Idaho 83403, of the County of Bonneville, State of Idaho, the party of the first part, and STEPHEN J. McGRATH, a married person dealing with his sole and separate property, of 9382 South 1st East, Idaho Falls, Idaho 83404, of the County of Bonneville, State of Idaho, the parties of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part and to his heirs and assigns forever, the following described real estate, situate in the County of Bonneville, State of Idaho, to-wit:

The S 1/2 of the NW 1/4 of Section 8, Township 1 North, Range 44 East of the Boise Meridian, Bonneville County, Idaho according to the recorded plat thereof.

TOGETHER WITH all water and water rights, ditch and ditch rights, (including 2.0 C.F.S. in the Upper Rainey Creek tributary to the Snake River) located on or used in connection with said property.

SUBJECT TO all existing patent reservations, easements, rights-of-way, protective covenants, zoning ordinances, applicable building codes, laws and regulations.

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property as well in law as in equity, of the said party of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and its heirs, the said premises in the quiet and peaceable possession of the said party of the second part, and his heirs and assigns against the said party of the first part and its heirs and against all and every person and persons, whomsoever lawfully claiming or to claim the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set its hand and seal the day and year first above

Que S. Hansen
956 Rainey Creek Road
Swan Valley, Idaho 83449
(208) 483-2305

May 13, 1998

Ronald D. Carlson
Regional Mgr./Watermaster
Eastern Region
900 N. Skyline Dr.
Idaho Falls, Idaho 83402

VIA FACSIMILE ONLY

Dear Mr. Carlson:

I appreciate your time in meeting with me Monday to discuss the water rights granted Stephen McGrath when he purchased the 80 acres from me.

The materials you gave me Monday were an application by McGrath for new diversion points for his water rights from Rainey Creek. It appears that on August 8, 1996, he requested two diversion points on his property. We are very interested in the status of that application. You did not give me anything related to how you calculated the cfs you transferred to him.

Several questions remain about the transfer of water rights by the Department of Water Resources to McGrath with his purchase. I ask some of these questions Monday and they remain unanswered:

1.) How can you grant water rights directly to Stephen McGrath without my concurrence, given that the Contract of Sale for the 80 acres, between McGrath and me, specifically authorized me only to arrange to convey the transfer of the water rights. There appears to be a significant ethical issue here. The Contract of Sale was drafted by McGrath's attorney and he is an attorney and you and he were acting in violation of that agreement. You stated you saw the Contract of Sale, although you could not find a copy.

2.) On what basis do you determine how many cfs are assigned to an irrigateable acre of land.

3.) On what basis did you determine how many cfs to transfer from me to McGrath. It appears you may have granted him from two to four times the amount warranted.

He has approximately 20 acres of irrigateable land in the 80 acres, the balance is a large slew and other pasture land which was never accessible to the irriagation ditches and never irrigated. McGrath's application for new diversion points seems to suggests he has 45 acres of irrigateable land. If that was your basis you are incorrect. It appears you cooperated with McGrath who has never irrigated the land, and has no knowledge of the number of irrigateable acres in an obvious breach of a carefully negotiated Contract of Sale.

4.) What is the process to recind water rights inappropriately given away. I should have a right to retain my water rights and reclaim them without the necessity of filing a legal action against you personally and the Department of Water Resources. However, I

Page 2 of 2
Carlson
May 13, 1998

have obtained legal counsel and we are prepared to resolve this matter in court if we cannot get the cooperation of you and the Department of Water Resources.

It is my understanding you have a close and long term relationship with McGrath which may affect your decisions in this matter.

I will appreciate being contacted by the Department of Water Resources in a reasonable time.

Very Truly Yours,



Que S. Hansen

Attachment

c: William Dalling, Attorney

COPY

MAY 15, 1998

QUE S HANSEN
956 RAINEY CREEK RD
SWAN VALLEY ID 83449

Mr. Hansen:

I have reviewed your May 13, 1998 fax letter to Ron Carlson referencing transfer application #4851 filed by Steve McGrath.

For your information I have included a copy of claim A23-00020 which is one of the rights affected by this transfer, you will note that this claim was originally filed by Archie McKay on 9/26/1989. The land list shows 215 acres irrigated of which 45 acres are located in the S1/2 NW1/4 Sect 8 T1N R44E.

On June 15, 1992, the department received a change of ownership for claims A23-00020, A23-00019A, A23-00093 and A23-00047B signed by Mr. McKay and yourself. The data base was changed to show you as the current owner. You also did not make any change or reduction in the 215 acres claimed.

On June 3, 1996, Steve McGrath filed a change of ownership form with the department for a pro-rated share of the claims listed above and provided evidence that he owned the 45 acres listed on your claim in the S1/2 NW1/4 Sect 8 T1N R44E. The claims were then split based on the cfs per acre listed on each claim multiplied by the acres owned by each party.

Example:

1. Claim A23-00020 has $\frac{1.60 \text{ cfs}}{215 \text{ acres}} = 0.00074 \text{ cfs/acre}$
2. Mr. McGrath owns 45 acres of claim A23-00020.
 $45 \text{ acres} \times 0.00074 \text{ cfs/acre} = 0.33 \text{ cfs}$

Mr. McGrath also filed transfer #4851 to add a point of diversion to his portion (45 acres) of the 215 acre farm and the four rights listed as being appurtenant to that place of use. The pro-rations were calculated as the example above demonstrates. In Idaho an irrigation water right is appurtenant to the acreage listed as its place of use. Mr. McGrath had demonstrated he owned a portion of that place of use and was entitled to file a transfer

application.

Page 2

Que S Hansen

Mr. McGrath worked solely through me with his transfer filing and the application was advertised as required by Idaho Code. No protests were filed and the application was sent to the State Office in Boise on August 9, 1996.

I have also enclosed a copy of the warranty deed supplied by Mr. McGrath. If you have a contract of sale that has restrictive elements in it that should be known then I would need a copy of said signed contract.

I will need any contractual papers submitted to me within 7 days of receipt of this letter.

If you have additional questions, please let me know.

Sincerely,

**Harold W Jones
Water Rights Supervisor**

HWJ::sc

Enclosure

Que S. Hansen
9196 Brushboro Drive
Brentwood, TN 37027
(615) 661-8927

May 13, 1998

Harold W. Jones
Water Rights Supervisor
Eastern Region
900 N. Skyline Dr.
Idaho Falls, Idaho 83402

VIA FACSIMILE ONLY

Dear Mr. Jones:

I received your letter of May 15, 1998. I appreciate your timely response. I want to state I did send a letter of protest to Mr. Carlson on the day I received notice of any action being taken on my water rights. In that letter I protested acting contrary to the contract of sale, among other things (attached is a copy of my letter of protest).

I conclude the following from the letter and information you sent to me:

- 1.) Steven McGrath presented you with a warranty deed to some property he purchased from me.
- 2.) Based on receipt of the "deed" you identified the water rights associated with the 215 acres McGrath's property was a part of and granted him a pro-rata share of the cfs based on the acres purchase as related to the total of the larger piece.
- 3.) You granted the cfs without regard to:
 - a.) the number of acres that were irrigatable.
 - b.) any restrictions in the purchase arrangement.

I question the above process and have several questions which remain unanswered about your granting water rights to McGrath with his purchase.

- a.) Is it consistent with Department of Water Resources policies to grant water rights directly to a new property owner presenting a warranty deed, from a third party, without the concurrence or notification of the contemplated change to the original owner. Further is it consistent with your policies to grant the water rights contrary to a Contract of Sale specifically authorizing only the seller to arrange conveyance of the water rights.

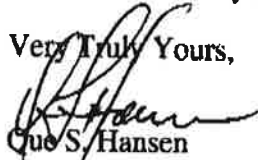
The warranty deed McGrath presented to you grants 2.0 cfs the McGrath while the contract of sale grants only .20 cfs. In addition, it is my belief that if you used Department of Water Resources established methods of relating cfs to the number of acres under irrigation you would have granted McGrath significantly less. As stated in the attached letter sent to Mr. Carlson in 1996, a copy of the contract of Sale was forwarded to your offices then. Do you need another copy.

Page 2 of 2
Jones
May 21, 1998

- b.) Do you grant water rights for acreage which has never been irrigated before.
- c.) In your letter you show an example of granting McGrath .33 cfs, when in fact you granted 1.98 cfs. Can you explain this.
- d.) You granted McGrath water rights based on 45 acres while he has less than 20 acres that have ever been irrigated. Why did you not grant him cfs for 80 acres, that is the amount he purchased.
- e.) Again what is the process to rescind water rights inappropriately given away. I request an answer to this question. I need to know whether to proceed with legal representation. Do you have a process within your department to overturn incorrect actions.

I look forward to your reply.

Very Truly Yours,


Que S. Hansen

Attachment

c: William Dalling, Attorney
Stephen McGrath



HANSEN-SILVER GUEST RANCH

Dave Carlson
State Of Idaho
Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718

Dear Dave:

As per our conversation today, I'm attaching a copy of the November 22, 1996, letter received from your office reflecting a change in water ownership for certain water rights as requested by Stephen J. McGrath. As per your comment, apparently Mr. McGrath stated to the representatives in your office that he had an agreement with me to transfer water rights as part of a sale of property to him by me.

I want to restate that we have no agreement in place to transfer any water rights to him.

And because of that, this change in ownership documented in your November 22, 1996, letter should be voided.

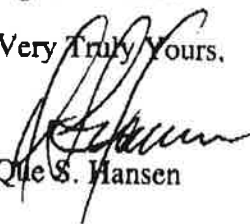
An additional problem with the water rights, as reflected in your letter, is that such a transfer, if it had been agreed to, would be different than that reflected in the change requested by Mr. McGrath. We have a mutual agreement that he has approximately 10% of the irrigatable property, not the 25-26% reflected in the change of ownership report. He has been paying approximately 10% of the electricity and other irrigating costs. I have attached a copy of the only agreement between Mr. McGrath and myself.

If you need any additional information, I will be happy to provide it for you.

My corrected address: Que S. Hansen
9196 Brushboro Drive
Brentwood, TN 37027

I also want to note that the copy of the New Property Ownership Notice of Change of Water Right Ownership, sent to me, has an incorrect address for me and does not have my signature on it.

Very Truly Yours,



Que S. Hansen

QSH/kad

attachment

LAW OFFICES OF
McGRATH, MAROTZ & SMITH

STEPHEN J. McGRATH
SCOTT W. MAROTZ
BRYAN D. SMITH*

*ALSO ADMITTED IN CALIFORNIA

414 SHoup
POST OFFICE BOX 50731
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 524-0731
FAX (208) 529-4166

ASSOCIATED WITH
RACINE, OLSON, NYE,
COOPER & BUDGE
CHARTERED
CENTER PLAZA
CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, ID 83204-1391
TEL (208) 232-6101
FAX (208) 232-6109

May 19, 1998

Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718

ATTENTION: Eric Verner

Re: Rainey Creek Relocation

RECEIVED

MAY 21 1998

Department of Water Resources
Eastern Region

Dear Mr. Verner:

I understand that my good neighbor Que Hansen is attempting to relocate a portion of Rainey Creek. While I wish Mr. Hansen all of the success in the world in his plans for a new subdivision, I must be mindful of the possible effect of construction activities upon my adjoining properties.

SCA As a downstream appropriator, I have two concerns. The first of these is that the delivery of water to my property not be diminished by virtue of channel loss associated with the creation of a new stream bed. Secondly, I am concerned that utilization of a new stream bed not increase the sediment load on our downstream properties.

SCA Would you please be so kind as to confirm that your department will take any steps deemed necessary to assure that we will experience neither increased channel loss nor increased sediment deposits as a result of the proposed project before granting any further permits?

HWJ
I also enclose a copy of page one of the contract with Mr. Hansen by which I acquired the subject properties. Please note that Mr. Hansen contracted to convey 2.0 cfs of Upper Rainey Creek water. I note the transfer only mentions 1.98 cfs. Please advise as to what will be necessary to correct this shortage.

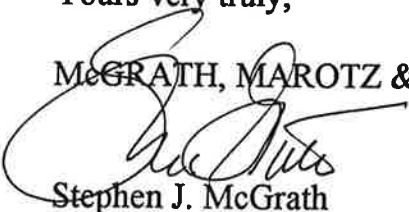
Can you answer this?

Eric Verner
May 19, 1998
Page 2

May I please hear from you.

Yours very truly,

McGRATH, MAROTZ & SMITH



Stephen J. McGrath

SJM/dh
Enclosure

CONTRACT OF SALE

THIS AGREEMENT is made the ____ day of December, 1995, between **Que S. Hansen and Lynda K. Hansen**, individually and as Trustees of **The Que S. Hansen Family Trust** dated September 2, 1993, whose mailing address is Suite 1110, 110 21st Avenue South, Nashville, TN 37203, referred to herein as "Seller", and **Rudd Management Corporation**, an Idaho Corporation, whose mailing address is 725 S. Woodruff Ave., Idaho Falls, ID 83401, referred to herein as "Buyer".

WITNESSETH:

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1 AGREEMENT TO SELL AND PURCHASE.

The Seller agrees to sell to the Buyer on the performance of the covenants and conditions hereinafter mentioned, and convey by good and sufficient warranty deed and bill of sale, free of liens and encumbrances, excepting any that may have attached by reason of any act or deed of Buyer and excepting any encumbrances to which this agreement is expressly made subject, the real and personal property situated in Bonneville County, Idaho, and described as follows, to-wit:

Real Property:

South one half of the Northwest quarter (S½NW¼) of Section 8, Township 1 North, Range 44 East of the Boise Meridian, Bonneville County, State of Idaho, including existing corrals, small shed, ditches, ditch rights, water, and water rights (including 2.0 C.F.S. in the Upper Rainey Creek tributary to the Snake River) located on or used in connection with said property.

Also together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions,

From: DWR03::JJOHNSON 9-JUN-1998 09:41:51.22
To: @SKIP
CC: JJOHNSON
Subj: McGrath Transfer Update

Tr. 4851

Today I received from Norm a memo outlining actions that should be taken.
Below is highlights of his requested action.

1. Get a copy of contract of sale from Mr. Hanson if we do not have one.
2. Respond to Mr. Hansen's second letter indicating that IDWR must consider the four criteria of Section 42-222 even if the transfer is not protested and also consider whether the applicant has a right to the water sought to be transferred. The department wants to have all relevant information as the decision is made, so will appreciate receiving any information he has on these issues.
3. Assure Mr. Hansen the records of the department are open, and he is free to inspect the information now in the water right file and activity related to the processing of the McGrath's transfer.
4. Clarify that IDWR is not "granting" water rights through the present transfer process; only changing existing rights in accordance with an application filed under state law.
5. Give Mr. Hansen two weeks to provide any information he wants, explain that the department will issue a preliminary order after that.
6. Send a copy to McGrath and to Eastern

I will be drafting the letter for Norm's approval.

Would you please check with Dave Carlson to see if a copy of the contract of sale has been filed with us?

Also if you have any other information or if SRBA folks have any information relating to items identified above please let me know right away.

Rts 23-00020

- 00093 B

- 00019 D

- 00047 D

10-16

14-15667 JR

ATEC
910775

Warranty Deed

For Value Received QUE S. HANSEN AND LYND A K. HANSEN, TRUSTEES AND THEIR
SUCCESSORS AS TRUSTEES OF THE QUE S. HANSEN FAMILY TRUST, DATED SEPTEMBER 2, 1993

the grantor s , do hereby grant, bargain, sell and convey unto

RUDD MANAGEMENT CORPORATION

whose current address is

725 S. WOODRUFF IDAHO FALLS, IDAHO 83403

the grantee s , the following described premises, in BONNEVILLE County Idaho, to wit:

THE S 1/2 OF THE NW 1/4 OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 44, EAST OF THE
BOISE MERIDIAN, BONNEVILLE COUNTY, IDAHO ACCORDING TO THE RECORDED PLAT THEREOF ..

INSTRUMENT NO.	910775
DATE	12-7-95
INST. CODE	205
FICHE NO.	11050-35
FEE	3.00
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Ronald Long County Recorder	
By <i>[Signature]</i> Deputy	
Request of	

95 DEC 7 PM 4 53

BONNEVILLE COUNTY
RECORDER

910775

SUBJECT TO: ALL EXISTING PATENT RESERVATIONS, EASEMENTS, RIGHTS-OF-WAY,
PROTECTIVE COVENANTS, ZONING ORDINANCES, AND APPLICABLE BUILDING CODES, LAWS AND
REGULATIONS.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s ,
THEIR heirs and assigns forever. And the said Grantor S do hereby covenant to and with the said
Grantee s that THE Y ARE the owner s in fee simple of said premises; that they are free from all incumbrances

and that T heY will warrant and defend the same from all lawful claims whatsoever.

Dated: DECEMBER 1, 1995

[Signature]
QUE S. HANSEN

[Signature]
LYNDA K. HANSEN

[Signature] THURSDAY
QUE S. HANSEN, TRUSTEE OF THE QUE S.
HANSEN FAMILY TRUST

[Signature]
LYNDA K. HANSEN, TRUSTEE OF THE QUE S.
HANSEN FAMILY TRUST

FAX TRANSMISSION

McGRATH, SMITH & ASSOCIATES

414 SHOUP AVENUE
IDAHO FALLS, IDAHO 83402
(208) 524-0731
FAX: (208) 529-4166

To: Ron Carlson
Department of Water Resources

Date: September 28, 1998

Fax #: (208) 525-7177

Pages: 4, including this cover sheet.

From: Stephen J. McGrath, Esq.

Subject: Transfer of Water Rights

COMMENTS:

Ron:

Please give me a call following your review.

Steve/dh

AGPH
Agouran Transmittal

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately notify us by telephone to arrange for return of the original documents to us. Thank you.

**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**

September 24, 1998

**PHILIP E. BATT
GOVERNOR****KARL J. DREHER
DIRECTOR**

Stephen J. McGrath
P.O. Box 50731
Idaho Falls, ID 83405

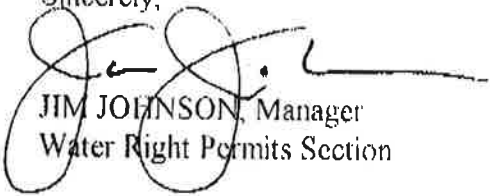
RE: Transfer 4851
Water Rights 23-00019D/00020B/00047D & 00093B

Dear Mr. McGrath:

Thank you for the time you spent on the telephone with me yesterday discussing the approval conditions of Transfer 4851. I believe we have clarified your concerns and addressed modifications of the approval. I have enclosed a draft of the proposed Amended Transfer approval form for your review.

I will withhold the Amended Transfer from final approval until you have had a chance to review, comment or discuss any concerns you may have. Please contact me directly by telephone at 327-7947 or mail your response to my attention, so that we may resolve any remaining questions in the most expedient manner.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

AMENDED

AMENDED

TRANSFER NO. 4851
WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

This is to certify that: STEPHEN J MCGRATH
PO BOX 50731
IDAHO FALLS ID 83405

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. 23-00019D :			
IRRIGATION	04/15 to 10/15	0.34 CFS	117.6 AF
Priority: 04/15/1889			
Right No. 23-00020B :			
IRRIGATION	04/15 to 10/15	0.34 CFS	123.4 AF
Priority: 06/20/1889			
Right No. 23-00047D :			
IRRIGATION	04/15 to 10/15	0.32 CFS	57.8 AF
Priority: 05/15/1896			
Right No. 23-00093B :			
IRRIGATION	04/15 to 10/15	1.00 CFS	157.5 AF
Priority: 01/22/1916			
TOTAL:		* 2.00 CFS	* 157.5 AF

SOURCE

RAINEY CREEK

TRIBUTARY OF

SNAKE RIVER, SOUTH FORK

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 8, Township 01N, Range 44E
BONNEVILLE 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>
01N	44E	8	SWNW	30	SENEW	15
Total number of acres irrigated:						** 45

PAGE 2

TRANSFER NO. 4851
WATER RIGHT NO(S). 23-00019D/23-00020B/23-00047D/23-00093B

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
2. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. 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.
5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
6. A lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- * 7. The total instantaneous diversion of water from all points of diversion under Transfer No. 4851 shall not exceed 2.00 cfs, nor total combined annual volume of 157.5 af.
- ** 8. Right 23-00019D is limited to the irrigation of 33.6 acres in the place of use described above in a single irrigation season.
- ** 9. Right 23-00047D is limited to the irrigation of 16.5 acres in the place of use described above in a single irrigation season.
- ** 10. Rights 23-00019D and 23-00047D when combined shall not exceed a total annual diversion volume of 117.6 af and the irrigation of 33.6 acres.
11. Rights 23-00019D, 23-00020B, 23-00047D and 23-00093B when combined shall not exceed a total diversion rate of 2.00 cfs, a total annual diversion volume of 157.5, and the irrigation of 45.0 acres.
12. Two points of diversion are located within the SWNW, S08, T01N, R44E.

Dated this _____ day of _____

Chief, Water Allocation Bureau

MEMO

DATE: AUGUST 7, 1992

FROM: GREG TAYLOR

RE: W.R. NO. 23-00020, T383 AND T383-A

PURPOSE:

Mr. Ranell Weeks of Swan Valley believes that 0.80 cfs (1/2) of right no. 23-00020 pertains to land he leases in the SE1/4 Sec. 05, T01N, R44E. Water District 01 has apparently delivered this right to him in the past, but this year Que Hansen insisted that he owned the water right. It was determined that the right was appurtenant to Hansen's land instead of Weeks' by using the IDWR computer database.

FINDINGS:

(1) a. According to Water District 01 Decree Book there is a right with an April 9, 1889 priority date for 1.60 cfs and is owned by A.J. Bernard(23-00021).

b. According to Water District 01 Decree Book there is a right with an April 15, 1889 priority date for 3.20 cfs and is owned by S.J. Weeks and John Miller(23-00019A & B).

c. According to Water District 01 Decree Book there is a right with a June 20, 1889 priority date for 1.60 cfs and is owned by S.J. Weeks and John Miller(23-00020).

(2) Water District 01 Decree Book has 23-00020 split with 0.80 cfs to S.J. Weeks and 0.80 cfs to John Miller. ~~This split took place by unrecorded transfer.~~

(3) Mr. Ranell Weeks came into the I.D.W.R. Idaho Falls office on July 16, 1992. He spoke with Keith Wilson and Greg Taylor, and submitted two(2) Certificates of Transfer dated July 19, 1926. The transfer nos. were T383 and T383-A.

(4) T383 transferred 1.60 cfs of an April 15, 1889 water right off of the SE1/4 SE1/4 Sec. 06; NE1/4 NE1/4 Sec. 07; S1/2 SW1/4 Sec. 05, and the N1/2 NW1/4 sec. 08, T01N, R44E and the water became appurtenant to the SE1/4 Sec. 05, T01N, R44E. This right is 23-00019.

(5) T383-A transferred 0.80 cfs of an April 9, 1889 water right off of the SE1/4 SE1/4 Sec. 06; NE1/4 NE1/4 Sec. 07; S1/2 SW1/4 Sec. 05, and the N1/2 NW1/4 Sec. 08, T01N, R44E and the water became pertinent to the SE1/4 Sec. 05, T01N, R44E. This right would seem to be 23-00021 because it is the only right on Rainey Creek with a 4-9-1889 priority date. Mr. Weeks believes the priority date on the transfer should be June 20, 1889 and therefore, right no. 23-00020.

MICROFILMED

APR 11 1994

(6) T488 dated 1930 transferred all of 23-00021 off of the original place of use in E1/2 SW1/4 Sec. 36, and onto land in the N1/2 N1/2 Sec. 04, T01N, R44E.

(7) T860 dated 1955 transferred all of 23-00021 off of land in N1/2 N1/2 Sec. 04 and onto land in Lots 1, 2, 3 and SENE Sec. 04, T01N, R44E.

(8) Archie McKay filed a Notice of Claim on 23-00020 in 1989 for the entire right.

(9) Que Hansen submitted a change of Ownership for A23-00020 in June 1992.

(10) Dennis Bitton asked Tony Olenichak, Hydrologist for W.D. 01, in June 1992 who should be delivered 23-00020. Tony checked the Department database and discovered that 23-00020 pertains to Que Hansen's land and not Mr. Weeks'.

(11) The Department Database does not reference T383-A.

(12) Mr. Weeks did not file a claim in the Snake River Basin Adjudication for right no. 23-00020.

CONCLUSIONS:

(1) The priority date for the water right in T383-A probably should have been June 20, 1889. Evidence supports the fact that T488 and T860 were for 4-9-89 water right from Sec. 36 to Sec. 04.

(2) Tony used the best available data at that time when he notified Dennis Bitton that he should deliver 23-00020 to Hansen only. Keith Wilson and I also used the data we had available when we told Mr. Weeks that 23-00020 is not appurtenant to his land.

(3) Mr. Weeks has been contacted and informed that it may be in his best interest to file a Notice of Claim in the ongoing Snake River Basin Adjudication, on that portion of 23-00020 that he believes he now holds.

(4) Delivery of right No. 23-00020 will be according to the discretion of the Water Master of Water District 01.

MICROFILMED

APR 11 1994

beginning, containing 30 acres.
 NW $\frac{1}{4}$ of Sec. 31, T. 7 N., R. 40 E., B. M., containing

SE $\frac{1}{4}$ of Sec. 31, T. 7 N., R. 40 E., containing 80
 of Sec. 31, T. 7 N., R. 40 E., B. M., containing

5 and 6, and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 20, T. 5 N.,
 ining 160 acres.
 NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and Lot 2, Sec. 6, T. 3 N.,

Sec. 19, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 26, and SW $\frac{1}{4}$ of SW $\frac{1}{4}$
 38 E., B. M., containing 160 acres.
 Sec. 36, T. 1 N., R. 37 E., B. M., containing 160

of Sec. 11, E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 11, S $\frac{1}{2}$ of NE $\frac{1}{4}$
 37 E., B. M., containing 320 acres.
 of SW $\frac{1}{4}$ of Sec. 12, N $\frac{1}{2}$ of NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of
 N., R. 44 E., B. M., containing 200 acres.
 of SW $\frac{1}{4}$ of Sec. 1 and E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 2,
 T. ?? N., R. 45 E., B. M.

B.
 E $\frac{1}{2}$ and E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 8, T. 3 N., R. 45 E.

& Dixon Ditch Company.
 E $\frac{1}{2}$ and Lots 3 and 4, Sec. 20, T. 1 N., R. 44 E.,
 60 acres.

NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 9,
 containing 160 acres.

NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, N $\frac{1}{2}$ of SW $\frac{1}{4}$ and lots
 1 N., R. 44 E., B. M., containing 320 acres.
 NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 21; SW $\frac{1}{4}$ of NW $\frac{1}{4}$
 22, T. 1 N., R. 44 E., B. M.

f NE $\frac{1}{4}$, NE $\frac{1}{4}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 16,
 , containing 160 acres.

1 and 2 and N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 6, T. 12 N.,
 ining 160 acres.

of Sec. 8., T. 12 N., R. 42 E., B. M., containing

Sec. 29, T. 5 N., R. 38 E., B. M., containing 160

of Sec. 10, T. 3 N., R. 45 E., B. M., containing

ed NW $\frac{1}{4}$ of Sec. 32, T. 6 N., R. 46 E. B. M., con-

veyed E $\frac{1}{2}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec.
 3. M., containing 160 acres.

(description given.)
 and 4, Sec. 28, SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 21; N $\frac{1}{2}$ of
 of SW $\frac{1}{4}$ of Sec. 22, T. 1 N., R. 44 E., B. M.,
 3.

$\frac{1}{2}$ of Sec. 14 and E $\frac{1}{2}$ of E $\frac{1}{2}$ of Sec. 15, T. 3 S.,
 ining 320 acres.

Sec. 24, T. 4 N., R. 44 E., B. M., containing 160

William, Lots 3, 5 and 7, and SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of
 and S $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 9, and NW $\frac{1}{4}$ of NW $\frac{1}{4}$
 (except ten acres in square form in SEcorner

of SW $\frac{1}{4}$ of SW $\frac{1}{4}$), and Lot 6, Sec. 13, T. 5 S., R. 32 E., B. M., contain-
 ing 442 acres.

Bauman, Herman, NE $\frac{1}{4}$ of Sec. 23, S $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 34, T. 3 N., R. 38
 E., B. M., containing 240 acres.

Beach, A. W., S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 34, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 35, T. 3 N., R.
 38 E., B. M., containing 120 acres.

Beahrensmeier, Grace P., and H. H. Plank, N $\frac{1}{2}$ of Sec. 21 and N $\frac{1}{2}$ of S $\frac{1}{2}$
 of Sec. 21, T. 1 N., R. 38 E., B. M., containing 480 acres.

Beam, Charles A., SE $\frac{1}{4}$ NE $\frac{1}{4}$ and Lots 1, 2 and 3 of Sec. 4, T. 1 N., R. 44
 E. B. M.

Beam, Frank, Lot 1, Sec. 5, T. 1 N., R. 44 E., B. M.

Beam, Herbert L., SW $\frac{1}{4}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$ and
 NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 4, T. 1 N., R. 44 E., B. M., containing 160 acres.

Beam, Matilda E., SW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 33, T. 2 N.,
 R. 44 E., B. M., containing 80 acres.

Beam, Nellie M., SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 33, T. 2 N., R. 44 E., B. M., and
 NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 4, T. 1 N., R. 44 E., B. M.

Beard, James T., N $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 22, T. 7 N., R. 41 E.; S $\frac{1}{2}$ of SW $\frac{1}{4}$
 of Sec. 14; E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 15, T. 7 N., R. 41 E., B. M., containing
 240 acres.

Beasley, Joseph, S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 35, T. 5 N., R. 45 E.; Lot 1 of Sec.
 3, Lot 4 of Sec. 2, T. 4 N., R. 45 E., B. M.

Beasley, S. J., SW $\frac{1}{4}$ of Sec. 15, T. 1 N., R. 38 E., B. M., containing 160
 acres.

Beckstead, W. W., beginning 50 rods S of NE corner of NE $\frac{1}{4}$ of Sec. 15,
 T. 6 N., R. 40 E., B. M., thence S. 50 rods, thence W. 160 rods, thence
 N. 50 rods, thence E. 160 rods, to beginning, containing 50 acres.

Beezley, Ebenezer, and J., NE $\frac{1}{4}$ of Sec. 23, T. 4 N., R. 45 E., B. M., con-
 taining 160 acres.

Beguina, J. W., E $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 25, T. 1 N., R. 37 E., B. M., containing
 80 acres.

Bell, Joseph, E $\frac{1}{2}$ of NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 20, T. 8
 N., R. 42 E., B. M., containing 160 acres.

Belnap, A. W., E $\frac{1}{2}$ of W $\frac{1}{2}$ of Sec. 32, T. 7 N., R. 40 E., B. M., containing
 160 acres.

Benton, C. E., SW $\frac{1}{4}$ of Sec. 27, T. 1 N., R. 37 E., B. M., containing 160
 acres.

Bernard, Alfred Joseph, NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 7; N $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 8;
 SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 5, T. 1 N., R. 44 E., B. M.; E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec.
 36, T. 2 N., R. 44 E., B. M.; SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 6, SW $\frac{1}{4}$ of SW $\frac{1}{4}$
 Sec. 5, T. 1 N., R. 44 E., B. M., containing in all 320 acres.

Bernston, Richard, E $\frac{1}{2}$ of SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and Lot 3, Sec. 6, T. 6
 N., R. 45 E., B. M.

Bettis, Alice, and Joseph, W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 14, T. ?? N., R. 45 E., B. M.,
 containing 80 acres.

Bevan, Maria, N $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 17, T. 5 N., R. 45 E., B. M., containing
 80 acres.

Big Bend Land Company, lands of stockholders, the description of said
 lands and the names of said stockholders not being given in the
 pleadings of said company.

Bigler, Jesse E., NE $\frac{1}{4}$ of Sec. 13, T. 6 N., R. 40 E., B. M., containing 160
 acres.

Birch, Mary H., Adminx. of Estate of Thomas Birch, deceased, lands under
 "Stewart Ditch." (NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 30, T. 7 N., R. 41 E., B. M.,
 containing 40 acres.)

Bishop, J. B., S $\frac{1}{2}$ of NE $\frac{1}{4}$, N $\frac{1}{2}$ of SE $\frac{1}{4}$ Sec. 2, T. 12 N., R. 41 E., B. M.;
 S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 2, and NE $\frac{1}{4}$ of Sec. 11, T. 12 N., R. 41 E., B. M.

Bishop, Jennie, SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and W $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 1, and NW $\frac{1}{4}$ of
 NW $\frac{1}{4}$ of Sec. 12; SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 1

POOR ORIGINAL

Party or Canal	Date	Decreed Amount in Sec.-ft.	Accumulated Total
UPPER RAINEY CREEK (above sinks)			
3-0021 Richard A. Beam (A. J. Bernard, TR 488, TR 860)	Apr. 9, 1889	1.6	1.6
3-0019 S. J. Weeks (A. J. Bernard TR 383, 383A)	Apr. 15, 1889	1.6	
23-0019 John Miller (A.J. Bernard	Apr. 15, 1889	1.6	Hansen 4.8
23-0079 Mrs. Shurtliff (Wm Shurtliff)	June 1, 1889	0.0	
3-0077 Mrs. Shurtliff (J. A. Schneebly)	June 1, 1889	2.4	10.2
97531 John Miller (A. J. Bernard)	June 20, 1889	0.8	
23-0020 S. J. Weeks (A. J. Bernard)	June 20, 1889	0.8	11.8
S. J. Weeks (John McGibbon			
23-0045 TR 439) Hopkins	Sept. 1, 1889	3.2	15.0
13-0038 Henry Goettsche (Chas&Mrs Englis			
TR 489) Hansen	June 1, 1890	1.94	16.94
23-0046 Richard A. Beam (John McGibbon			
TR 419, 860)	Sept. 1, 1890	1.6	18.54
23-0011 Elizabeth Beam (H. L. Beam)	June 1, 1891	3	21.54
23-0080 Mrs. Shurtliff (Wm Shurtliff)	June 1, 1891	2.4	23.94
23-0022 Harlan Corbett	July 6, 1892	2.0	25.94
2018 Nellie M. Beam	June 1, 1893	1.6	27.54
078 Mrs. Shurtliff (J. A. Schneebly)	May 1, 1895	1.0	28.54
014 Nellie M. Beam (Chas. Beam)	June 1, 1895	2.4	30.94
23-0024 Henry Goettsche (J. N. Corbett)	May 7, 1896	3.1	34.04
23-0047 Robert E. Miller (W. A. Meeds,			
TR 382)	May 15, 1896	1.55	
23-0047 S. J. Weeks (W. A. Meeds, TR 382)	May 15, 1896	1.55	37.14
23-0017 Nellie M. Beam (Matilda E. Beam)	Sept 19, 1897	1.6	38.74
23-0015 Nellie M. Beam (Frank Beam)	June 1, 1898	0.8	39.54
23-0064 J. L. Higham (J. T. Caldwell)	June 15, 1898	2.4	
23-0062 Mrs. Shurtliff (C. Caldwell)	June 15, 1898	2.4	44.34
TR 381A Henry Goettsche (V. W. Corbett)	Oct. 24, 1898	1.4	45.74
23-0025 Charles S. Dixon	July. 1, 1899	0.4	46.14
23-0028 Charles S. Dixon	June 1, 1900	0.6	46.74
23-0029 J. L. Higham (Supp)	Jan. 22, 1916	2.4	
R. A. Beam	Jan. 22, 1916	7.2	
23-0023 Ivan Weeks T 438	Jan. 22, 1916	3.2	
T. M. Weeks	Jan. 22, 1916	4.0	
J. B. Miller	Jan. 22, 1916	4.8	
Shurtliff Bros.	Jan. 22, 1916	17.6	
Elizabeth Beam	Jan. 22, 1916	3.0	
D. H. & J. L. Peterson	Jan. 22, 1916	2.0	
Henry Goettsche	Jan. 22, 1916	6.24	
Arvie Weeks	Jan. 22, 1916	1.0	
F. Stoltenberg	Jan. 22, 1916	2.4	100.58
23-0033 W. A. Louderbough (Lisc 12947)	May 7, 1917	0.5	101.08

23-4
Palmer vs Crandall

MICROFILMED

APR 11 1994

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 383

POOR ORIGINAL

This is to certify that Samuel J. Weeks, of Swan Valley, County of Bonneville, State of Idaho, has a right to the use of the waters of Rainey Creek, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bonneville, in the case of Rexburg Irrigation Company, et al, plaintiffs, vs. Teton Irrigation Canal Company, et al, defendants, J. M. Stevens, District Judge, wherein 3.2 second feet of the waters of Rainey Creek, in Water District No. 36, were decreed to Alfred Joseph Bernard for the irrigation of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 6; NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 7; S $\frac{1}{2}$ of SW $\frac{1}{4}$, Section 5, and the N $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 8, Township 1 North, Range 44 East of Boise Meridian, said right bearing date of priority of April 15, 1889; that said decree has been entered in the records of the Department of Reclamation of the State of Idaho, at Boise, in Book 3 of Decrees, at page 450; that, upon the application of Samuel J. Weeks for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 1.6 second feet of the waters of Rainey Creek is hereby abandoned upon the lands above described and the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, are shown in the following table, limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

1.6 sec.ft., dated April 15, 1889

Twp.	Rge.	Sec.	NE $\frac{1}{4}$		NW $\frac{1}{4}$		SW $\frac{1}{4}$		SE $\frac{1}{4}$		Total
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
1 N.	44 E.	5					40	40	40	40	160

That said waters are now diverted at a point on Rainey Creek in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 1 North, Range 44 East of Boise Meridian, but will hereafter be diverted at a point on said stream near the southwest corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4, Township 1 North, Range 44 East of Boise Meridian.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use herein described, as provided by the laws of the State of Idaho.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 7th day of July, 1926.

W. G. SWENDSEN
Commissioner of Reclamation

By G. N. Carter Assistant.
MICROFILMED
APR 11 1994

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 383-A.

POOR ORIGINAL

This is to certify that Samuel J. Weeks, of Swan Valley, County of Bonneville, State of Idaho, has a right to the use of the waters of Rainey Creek, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bonneville, in the case of Rexburg Irrigation Company, et al, plaintiffs, vs. Teton Irrigation Canal Company, et al, defendants, J. M. Stevens, District Judge, wherein 1.6 second feet of the waters of Rainey Creek, in Water District No. 36, were decreed to Alfred Joseph Bernard for the irrigation of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 6; NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 7, S $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, and the N $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 8, Township 1 North, Range 44 East of Boise Meridian, said right bearing date of priority of April 9, 1889; that said decree has been entered in the records of the Department of Reclamation of the State of Idaho, at Boise, in Book 3 of Decrees, at page 450; that, upon the application of Samuel J. Weeks for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 0.8 second feet of the waters of Rainey Creek is hereby abandoned upon the lands above described and the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, are shown in the following table, limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

0.8 sec. ft., dated April 9, 1889

Twp.	Rge.	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
1 N.	44 E.	5									40	40	40	40					160

That said waters are now diverted at a point on Rainey Creek in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 1 North, Range 44 East of Boise Meridian, but will hereafter be diverted at a point on said stream near the southwest corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4, Township 1 North, Range 44 East of Boise Meridian.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use herein described, as provided by the laws of the State of Idaho.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 7th day of July, 1926.

W. G. SWENDSEN
Commissioner of Reclamation

By G. N. Carter
Assistant.

MICROFILMED

APR 11 1994

POOR ORIGINAL

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application
of Samuel J. Weeks for Transfer
of Water Right: Water Dist. #36;
Case No. 172, 172-A.

ORDER GRANTING TRANSFER

WHEREAS, On the 2nd day of July, 1926, at the Department of Reclamation of the State of Idaho, at Boise, the matter of the application of Samuel J. Weeks for transfer of water right came regularly on for hearing, pursuant to the published notice; and,

WHEREAS, No one appeared at the hearing, either in person or by affidavit, to protest the said application, and the evidence submitted by the applicant with his application shows that a greater duty of water would result by reason of the transfer, and that no one would be injured thereby;

IT IS, THEREFORE, Hereby ordered that the said application for transfer be granted and that the certificate of transfer be issued the applicant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of my office, at Boise, Idaho, this 7th day of July, 1926.

W. G. SWENDSEN
Commissioner of Reclamation,

By


Assistant.

MICROFILMED

APR 11 1994

COPY

POOR ORIGINAL

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 488

THIS IS TO CERTIFY that Gustus Jacobson, of Swan Valley, County of Bonneville, State of Idaho, has a right to the use of the waters of Rainey Creek, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, in the case of Rexburg Irrigation Company, et al, plaintiffs, vs. Teton Irrigation Canal Company, et al, defendants, J. M. Stevens, District Judge, wherein 1.6 second feet of the waters of Rainey Creek, in Water District No. 38, were dedicated to the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 33, Twp. 2 N., R. 43 E., B.M., said right bearing date of priority of April 9, 1889; that said decree has been entered in the records of the Department of Reclamation of the State of Idaho, at Boise, in Book 3 of Decrees, at page 450:

THAT, upon the application of Gustus Jacobson for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 1.6 second feet of the waters of Rainey Creek upon the lands above described is hereby abandoned and a description of the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, is given below, said water to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

1.6 second feet, dated April 9, 1889
North half of North half (N $\frac{1}{2}$ N $\frac{1}{2}$), Sec. 4, Twp. 1 N., R. 44 E., B.M.

THAT the water to be transferred has heretofore been diverted at a point in the E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 33, Twp. 2 N., R. 43 E., B.M. and carried through the Shurtlief and Bernard ditch, but will hereafter, by virtue of this certificate, be diverted at a point in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, Twp. 2 N., R. 44 E., B.M. and carried through a private ditch called the Beam ditch.

THAT the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, this 10th day of June, 1930.

(SEAL)

GEO. W. CARTER
Commissioner of Reclamation.

MICROFILMED
APR 11 1994

POOR ORIGINAL

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application)
of Gustus Jacobson for Transfer) ORDER GRANTING TRANSFER
of Water Right: Water Dist. 38)

WHEREAS, On the 5th day of June, 1930, at the Department of Reclamation of the State of Idaho, at Boise, the matter of the application of Gustus Jacobson for a transfer of water right came regularly on for hearing, pursuant to the published notice: and,

WHEREAS, No one appeared at the hearing, either in person or by affidavit, to protest the said application and the evidence filed with the said application shows that a greater duty of water would result by reason of the transfer, and that no one would be injured thereby:

IT IS, THEREFORE, Hereby ordered that the said application for transfer be, and the same is, hereby granted and that the certificate of transfer be issued the applicant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office, at Boise, this 10th day of June, 1930.

(SEAL)

GEO. N. CARTER
Commissioner of Reclamation.

MICROFILMED

APR 11 1994

COPY

POOR ORIGINAL

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application of
Richard A. Beam
Swan Valley, Idaho

For a Transfer of Water Rights in Water
District No. 36, Bonneville County, Idaho.)

ORDER GRANTING TRANSFER
NO. 860.

WHEREAS, On the 21st day of July, 1955, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of Richard A. Beam of Swan Valley, Idaho, for a transfer of water right, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application shows that the water will be put to a higher and more beneficial use, and that no one will be injured thereby;

NOW, THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is hereby GRANTED, and that a Certificate of Transfer be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 3rd day of October, 1955.

MARK R. KULP
State Reclamation Engineer

MICROFILMED

APR 11 1994

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 860.

THIS IS TO CERTIFY THAT, Richard A. Beam of Swan Valley, Idaho, is the owner of and using a water right for 1.6 cubic feet per second of the waters of Rainey Creek with priority of April 9, 1889, and a water right for 1.6 cubic feet per second of the waters of Rainey Creek with priority of September 1, 1890, said water being decreed by Judge J. M. Stevens of the Sixth Judicial District of the State of Idaho in and for the County of Fremont in the case of *Idaho et al. vs. Teton Irrigation Canal Company, et al.*

REXBURG IRRIGATION COMPANY, et al.,

Plaintiffs

vs.

TETON IRRIGATION CANAL COMPANY, et al.,

Defendants,

said decree bearing date of December 16, 1910 and being made appurtenant to the following described lands, to-wit:

ESW $\frac{1}{4}$ Section 36, Township 2 North, Range 44 E., B.M.
NE $\frac{1}{4}$ Section 12, Township 1 North, Range 43 E., B.M.

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 3 of Decrees beginning at Page 450.

That by Certificates of Transfer Nos. 419 and 488 issued by the Commissioner of Reclamation of the State of Idaho, these rights were made appurtenant to the N $\frac{1}{2}$ of the N $\frac{1}{2}$ Section 4, Township 1 North, Range 44 East, B.M.

That Richard A. Beam of Swan Valley, Idaho, has become the owner of said described lands through Mesne Conveyance.

That now, upon the application of Richard A. Beam of Swan Valley, Idaho, for the transfer of 3.2 cubic feet per second of the waters of Rainey Creek made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 3.2 cubic feet per second of the water of Rainey Creek upon the above described lands is hereby abandoned, and the land to which the water rights hereby confirmed shall, by this certificate, become appurtenant for irrigation and domestic purposes is described as follows, to-wit:

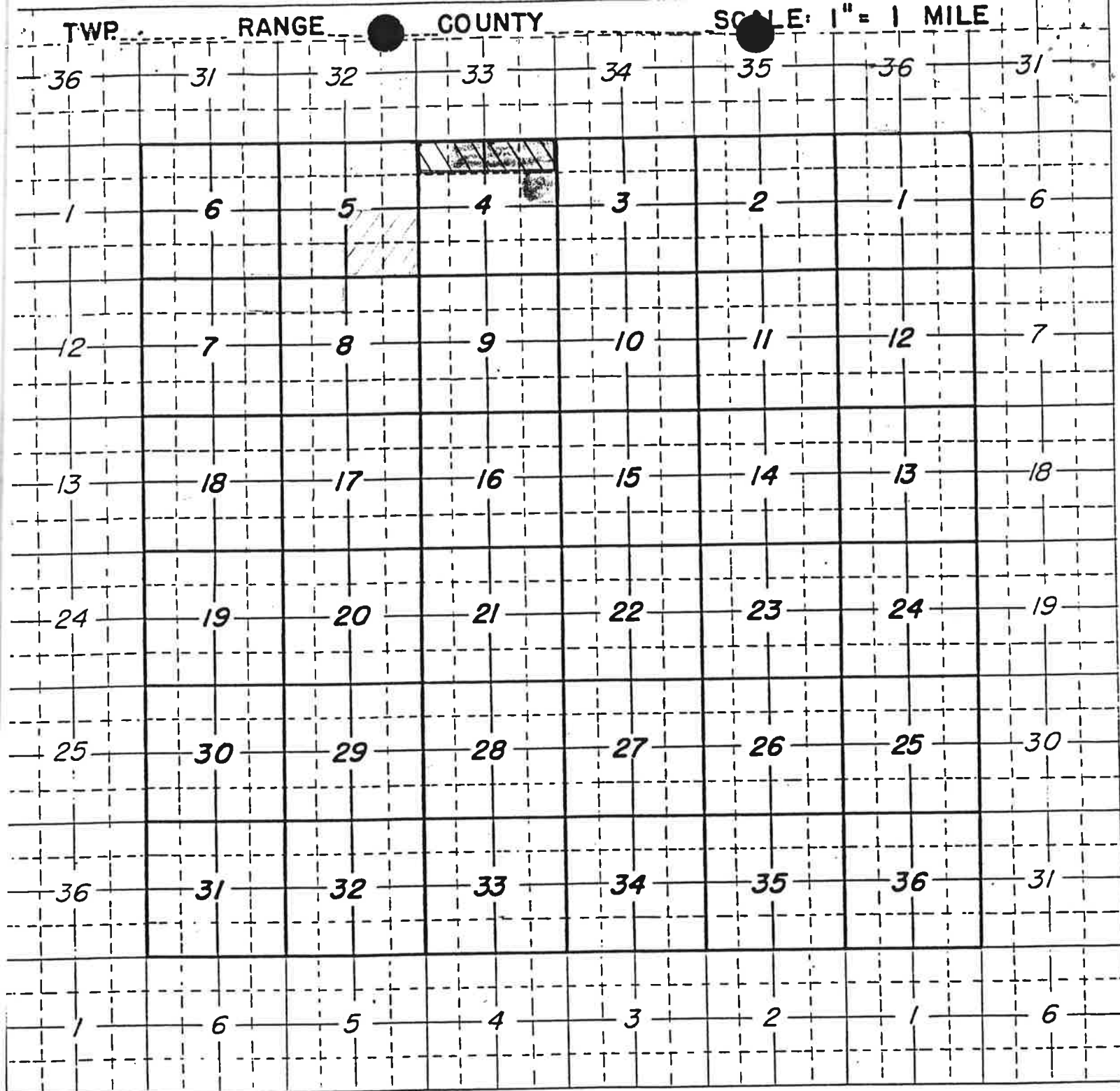
Lots 1, 2, 3 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4
Township 1 North, Range 44 East, B.M.

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amounts, to-wit:

1.6 cubic feet per second with priority of April 9, 1889
1.6 cubic feet per second with priority of September 1, 1890

MICROFILMED

APR 11 1994



= Rexburg Decree 1916 3.20 cfs 4-15-89; 1.60 cfs 6-20-89; 1.60 cfs 4-9-89.

= T383 and T383A → 1/2 or 1.60 cfs of 4-15-89; 1/2 or .80 cfs of 6-20-89

= T488 1.60 cfs of 4-9-89 from E 1/2 SE 1/4.

= T860 1.60 cfs 4-9-89 From N 1/2 N 1/2 sec. 04 to lots 1, 2, 3 and 4 SE 1/4

MICROFILMED

POOR ORIGINAL

APR 11 1994

JUNE 19, 1992

QUE S HANSEN
NEW CENTURY MANAGEMENT CO
28720 ROADSIDE DRIVE #399
AGOURA HILLS CA 91301

RE: CHANGE IN OWNERSHIP FOR A23-00019A, A23-00020,
A23-00093, AND A23-00047B

Dear Mr. Hansen:

The request for Change in Ownership concerning your Notices of Claim in the above reference has been processed and the Notices modified to reflect you as the new owner.

Enclosed are typed Notices with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep these Notices for your records.

Respectfully submitted,

Dave Carlson
Water Rights Agent, Adjudication

DC:jt

Enclosure

MICROFILMED

NOV 6 7 1992



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED
JUN 15 1992

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 01N Range 44E
Section 5, 1/4 of NE 1/4 of SW 1/4 Govt. Lot 1
Lot _____, Block _____, Subdivision/Townsite Summit Valley
If you have additional legal descriptions, please attach separate sheet.

Department of Water Resources

RECEIVED
JUN 18 1992

[] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[] Water Right Number(s)
Assigned by IDWR:

A23-00093
A23-00019A A23-00020 A23-00047B

[] Name and Address of Former
Owner/Claimant(s)(Seller):

ARCHIE & GENEVA MCKAY

1715 PARLEY

IDAHO FALLS, ID

83401

[] New Owner/Claimant
(Purchaser):

ONE S. HANSEN

[] New Mailing Address:

New Century Management Co.
28720 Roadside Dr., #399
Agoura Hills, CA 91301

[] New Telephone Number:

(818) 707-8135 extension 225

[] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

[] Attach proof of
ownership, describe
proof attached:

warranty deed

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[] Signature of New
Owner/Claimant(s)

ONE S. HANSEN

Date 6-8-92

Date _____

[] Signature of Former
Owner/Claimant(s):

Archie & Geneva McKay

Date 5-26-92

Date 5-26-92

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

MICROFILMED

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

NOV 07 1992