

**T4606 SMITH & MITCHELL**



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 15 1999

Department of Water Resources  
Eastern Region

TRANSFER OF WATER RIGHT

TRANSFER NOS. 4606 & 5093  
WATER RIGHT NO(S).  
34-00519E/34-00915E & 34-00519F/34-00915F

This is to certify that:

LLOYD L SMITH & GREG MITCHELL  
RULLA H SMITH 4306 HOUSTON RD  
RT 1 BOX 19 MACKAY ID 83251  
MACKAY ID 83251

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

| <u>BENEFICIAL USE</u>    | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|--------------------------|----------------------|-----------------------|----------------------|
| LLOYD L OR RULLA H SMITH |                      |                       |                      |
| Right No. 34-00519E :    |                      |                       |                      |
| IRRIGATION               | 05/01 to 10/15       | 1.59 CFS              | 287.0 AF             |
| Priority: 04/10/1889     |                      |                       |                      |
| Right No. 34-00915E :    |                      |                       |                      |
| IRRIGATION               | 05/01 to 10/15       | 0.14 CFS              | 26.6 AF              |
| Priority: 04/22/1884     |                      |                       |                      |
| TOTAL:                   |                      | 1.73 CFS              | * 287.0 AF           |
| GREG MITCHELL            |                      |                       |                      |
| Right No. 34-00519F :    |                      |                       |                      |
| IRRIGATION               | 05/01 to 10/15       | 0.30 CFS              | 54.3 AF              |
| Priority: 04/10/1889     |                      |                       |                      |
| Right No. 34-00915F :    |                      |                       |                      |
| IRRIGATION               | 05/01 to 10/15       | 0.03 CFS              | 4.9 AF               |
| Priority: 04/22/1884     |                      |                       |                      |
| TOTAL:                   |                      | 0.33 CFS              | * 54.3 AF            |

SOURCE

TRIBUTARY OF

BIG LOST RIVER

SINKS

LOCATION OF POINT(S) OF DIVERSION:

NWSWNE , Sec. 33, Township 07N, Range 24E  
CUSTER County



**TRANSFER NOS. 4606 & 5093**  
**WATER RIGHT NO(S).**  
**34-00519E/34-00915E & 34-00519F/34-00915F**

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> |
|-----------------------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| <b>LLOYD L OR RULLA H SMITH</b>               |            |            |              |              |              |              |
| <b>Right Nos. 34-00519E &amp; 34-00915E :</b> |            |            |              |              |              |              |
| 06N                                           | 24E        | 2.0        | NWSE 32.0    | SWSE 32.0    | SESE 13.0    | 77.0         |
|                                               |            | 11.0       | NENE 3.0     | NWNE 2.0     |              | 5.0          |
| Total number of acres irrigated:              |            |            |              |              |              | ** 82.0      |
| <b>GREG MITCHELL</b>                          |            |            |              |              |              |              |
| <b>Right Nos. 34-00519F &amp; 34-00915F :</b> |            |            |              |              |              |              |
| 06N                                           | 24E        | 2.0        | SESE 15.5    |              |              | 15.5         |
| Total number of acres irrigated:              |            |            |              |              |              | ** 15.5      |

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- \*\* 6. Right 34-00915E is limited to the irrigation of 7.6 acres in the place of use described above in a single irrigation season.
- \* \*\* 7. Rights 34-00519E and 34-00915E when combined shall not exceed a total annual maximum diversion volume of 287.0 af at the field headgate and the irrigation of 82.0 acres.
- \*\* 8. Right 34-00915F is limited to the irrigation of 1.4 acres in the place of use described above in a single irrigation season.
- \* \*\* 9. Rights 34-00519F and 34-00915F when combined shall not exceed a total annual maximum diversion volume of 54.3 af at the field headgate and the irrigation of 15.5 acres.
10. Approval of Transfers 4606 and 5093 does not preclude the opportunity for review of the water right(s) in the ongoing Snake River Basin Adjudication.

Dated this 28<sup>th</sup> day ofDecember, 1998.

*J. Blum Saylor*  
 Chief, Water Allocation Bureau



## MEMORANDUM

**TO:** Files 34-00519C & 34-00915C

**FROM:** Pam Skaggs  State Office

**SUBJECT:** Transfers 4606 & 5093

**DATE:** December 22, 1998

OK 

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Transfers 4606 and 5093 both pertain to Rights 34-00519C and 34-00915C as represented in the AJ database. The transfers were processed together and a single approval for prepared.

Transfer 4606 is to reflect a reduction in the place of use under these rights when Smith sold a parcel of land to Babineau without these surface water rights. Transfer 5093 is to reverse the effect of previously approved Transfer 3914 that also reduced the place of use under these rights when Smith sold a different parcel of land to Mitchell and retained the surface water rights. Although the transfer was approved and completed on paper, review in the SRBA found that the Mitchell property continued to receive a share of these rights and included the acres in the original recommendation. This transfer is proposed to correct the water right record to reflect actual use.

Clarification regarding the ownership of land and actual irrigation was needed to split the right between the Smiths and Mitchell in the SESE, S02, T06N, R24E. The Custer County Assessor's office confirmed ownership of the land and region staff reviewed the SRBA records and confirmed the recommended irrigated acres for each party (see mail message in file.)

These rights were split to reflect a prorated portion of each right when using the historical number of irrigated acres or 97.5 total acres. The season of use is non-standard as recommended by the SRBA and diversion volume is identified according to current standards.

Recommended conditions include watermaster control, measuring device & lockable controlling works, irrigation overlap, permissible place of use, combined right limits and standard transfer conditions.



Page 1 of 8STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 4606

## RECEIVE APPLICATION FOR TRANSFER OF WATER RIGHT

JUL 03 1995

PART 1

RECEIVED  
JUL 03 1995Department of Water Resources  
Name of applicantLloyd or Rulla Smith

Phone

Department of Water Resources  
(208) 588-2524

Post Office address

Rt. 1 Box 19 Mackay, ID83251

## 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 Concentrate rt. on 112 acres
2. Describe the reason for the proposed changes I have sold 3 acres of ground in the SESE of Section 2 to Ron + Laurie Babinreau + retained surface rights on that acreage for myself.

## B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

| 1. Right Number | Priority         | Amount<br>(cfs/ac-ft) | Nature<br>of Use  | Period of Use               |
|-----------------|------------------|-----------------------|-------------------|-----------------------------|
| <u>34-00519</u> | <u>4-10-1889</u> | <u>2.20 cfs</u>       | <u>Irrigation</u> | <u>5-01</u> to <u>10-15</u> |
| <u>34-00915</u> | <u>4-22-1884</u> | <u>0.20 cfs</u>       | <u>Irrigation</u> | <u>5-01</u> to <u>10-15</u> |
|                 |                  |                       |                   | to                          |
|                 |                  |                       |                   | to                          |

2. Total amount of water being transferred 2.40 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.
3. Source of water Big Lost River tributary to Sinks
4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     | NW  | SW  | NE  | 33   | 7N   | 24E  | Custer |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

## 5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 6N   | 24E  | 2    |        |        |        |        |        |        |        |        |        |        |        |        |        | 32     | 32     | 34     | 98     |
|      |      | 11   | 12     | 2      |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 14     |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 112

# PART 1

## 6. General Information:

a. Description of diversion system Darlington ditch delivers water to place of use

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? \_\_\_\_\_ Yes XX 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 concentrates surface water usage for better utilization on the  
remaining 117 acres.  
Babinzau retain portion of groundwater for his acquired 3 acres.

## d. Remarks:

(Babinzau) owners of the 3 acres sold in the SESE Sect 2 have  
retained 0.06 cfs of Groundwater rt 34-02477c. Current  
transfer is being filed to declare separate p.d. by Babinzau's.

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

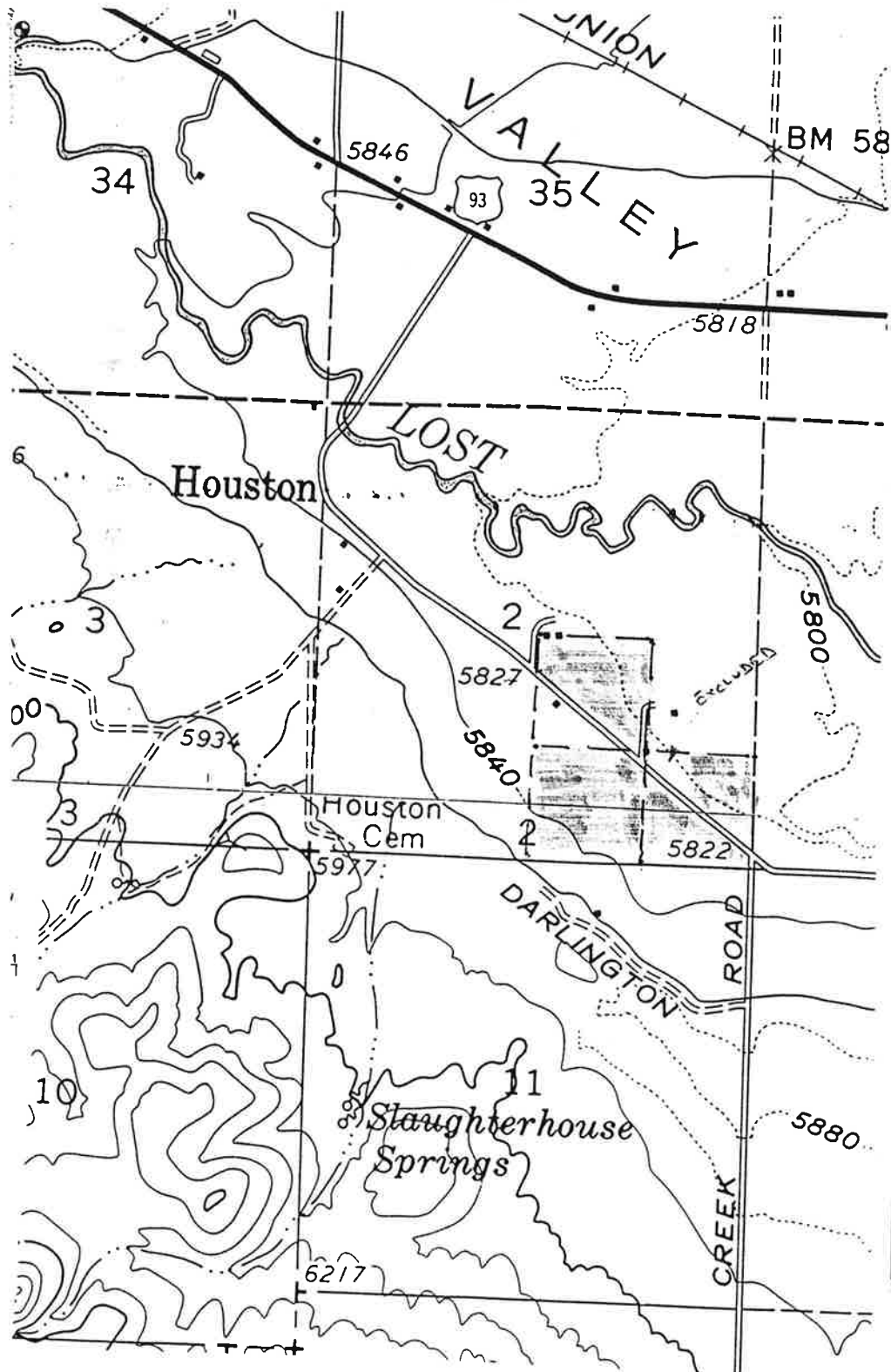
This is to certify that I have examined Application for Transfer of Water Rights No. \_\_\_\_\_

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 3**

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



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

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

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

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the ~~change~~ **does not** constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Lloyd L Smith  
(Signature of Applicant)

Subscribed and sworn to before me this 1st day of May, 19 95.

Maime A. Hirtz  
(Notary Public)

My commission expires 2-13-99

**FOR DEPARTMENT USE ONLY**

Transfer contains 8 pages and 1 attachments

Received by Ln Date 5/2/95 Protest filed by \_\_\_\_\_

Prelim. check by \_\_\_\_\_ Fee #100 \$ 5020916

Receipted by HWT Date 5-2-95

Published in Custer Publishing Co. Copies of protest forwarded by \_\_\_\_\_

Pub. dates May 18 & 25 - 1995 Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on 5-5-95 Recommended for ☒ approval ☐ denial

Water Dist 34 rec'd. 5-11-95 by Roc

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

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 34-00519

STAGE: DECREED

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> |
|-----------------------|----------------------|-----------------------|
| IRRIGATION            | 05/01 to 10/15       | 2.20 CFS              |

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

Priority: 04/10/1889

LOCATION OF POINT(S) OF DIVERSION: NWSWNE , Sec. 33, Township 07N, Range 24E  
CUSTER County

PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 06N                              | 24E        | 2          | NWSE 32      | SWSE 32      | SESE 37      | 101          |
|                                  |            | 11         | NENE 12      | NWNE 2       |              | 14           |
| Total number of acres irrigated: |            |            |              |              |              | 115          |

CONDITIONS/REMARKS:

1. THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).
2. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.
3. USE OF THIS RIGHT WITH RIGHT NOS. 34-00915 AND 34-02477C IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.29 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 287.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 115 ACRES IN A SINGLE IRRIGATION SEASON.
4. WATER IS DELIVERED THROUGH THE DARLINGTON DITCH.



## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 34-00915

STAGE: DECREED

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

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

Priority: 04/22/1884

LOCATION OF POINT(S) OF DIVERSION: NWSWNE , Sec. 33, Township 07N, Range 24E  
CUSTER County

PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 06N                              | 24E        | 2          | NWSE 32      | SWSE 32      | SESE 37      | 101          |
|                                  |            | 11         | NENE 12      | NWNE 2       |              | 14           |
| Total number of acres irrigated: |            |            |              |              |              | 115          |

CONDITIONS/REMARKS:

1. THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).
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3. USE OF THIS RIGHT WITH RIGHT NOS. 34-00519 AND 34-02477C IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.29 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 287.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 115 ACRES IN A SINGLE IRRIGATION SEASON.
4. WATER IS DELIVERED THROUGH THE DARLINGTON DITCH.



WATER RIGHT DISCLAIMER

May 1, 1995

We, Ron Babneau and Lori P. Babneau, hereby relinquish  
any right or claim to any surface waters under RIGHT NUMBERS:  
34-00519, 4-10-1889 2.20cfs, 34-00915, 4-22-1884 0.20cfs.

**RECEIVED**

MAY 02 1995

Department of Water Resources  
Eastern District Office

SIGNED:

Ronald E. Babneau

Lori P. Babneau

NOTARY:

Shane A. Hutz

