

**SUPERCEDED
BY
DECREE**

PLEASE NOTE

This water right is currently involved in an adjudication procedure. Insure that the regional office is notified of any changes or correspondence.

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF Application for Transfer No.)
95-4139 in the name of CHARLES W. POWER)
_____)

MEMORANDUM DECISION
AND ORDER

On August 24, 1973, Charles W. Power filed Claim to a Water Right No. 95-4139 with the Department of Water Administration. This water right is based upon diversion and beneficial use of water from Lower Twin Lakes, claiming a priority of 1900. The water is diverted from a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 8, Twp. 52 N, Rge. 4 W, B.M., and is used for the purpose of stockwater in the amount of 0.07 cfs of water for 1,000 sheep and for domestic purposes in the amount of 0.04 cfs of water for one household, with a total diversion rate of 0.11 cubic feet per second. The place of use is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 8, Twp. 52 N, Rge. 4 W, B. M.

On October 2, 1973, the claimant filed an Application for Transfer of Water Right with the Department proposing to change the nature of use, place of use and the point of diversion under the above numbered claim. The transfer application requests to change the nature of use from domestic and stockwatering purposes to irrigation purposes for 160 acres; the point of diversion from the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 8 to the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 8; and the place of use from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 8 to the SE $\frac{1}{4}$ of Sec. 8, all in Twp. 52 N, Rge. 4 W, B. M.

Notice of the proposed transfer was published in the Coeur d'Alene Press at Coeur d'Alene, Idaho, on October 11 and 18, 1973. As a result of publication, protests were received from Curran D. Dempsey and the Upper Twin Lakes Water Company.

A conference was held on March 28, 1974, at Coeur d'Alene, Idaho, to consider the matter of protests. After a discussion of the issues, the protestants agreed to withdraw their protests if the rate of diversion and annual volume of water used were not increased. On April 4, 1974, Mr. Power submitted to the Department additional information to substantiate his past use of the water and the Department, based upon this information, proposed a maximum rate of diversion and annual volume. On May 6, 1974, the Upper Twin Lakes Water Company withdrew their protest.

On May 16, 1974, Mr. Curran Dempsey requested a hearing for the purpose of determining a volume of water used. That hearing was held on June 13, 1974, at Coeur d'Alene, Idaho. Based upon the information obtained at the hearing, the information in the

Department's official records, and the Department's understanding of the law, the Director of the Department of Water Administration makes the following Findings of Fact, Conclusions of Law and Order:

Findings of Fact

- (1) The applicant watered 1,000 sheep for a five-month period.
- (2) The applicant used the water for domestic purposes including the irrigation of one-half acre.

Conclusions of Law

- (1) The volume of water is to be determined in the following manner:

Domestic (in-house use, one family)	0.57 AF/Yr.
Domestic (irrigation, one-half acre)	1.75 AF/Yr.
Stockwater (1,000 head, 5 months, 2 gal/head) .	0.93 AF/Yr.
TOTAL	3.25 AF/Yr.

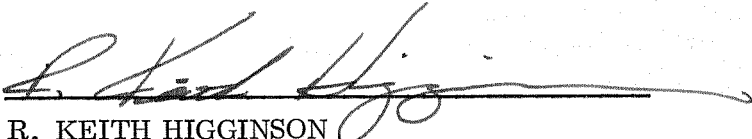
- (2) The transfer would not constitute an enlargement of the right.

ORDER

IT IS, THEREFORE, ORDERED and Application for Transfer of Water Right No. 95-4139 is HEREBY APPROVED subject to the following conditions:

- (1) That the maximum volume of water to be used in any one year shall not exceed 3.25 acre feet.
- (2) That a totalizing measuring device of a type approved by this Department shall be permanently installed and maintained at the point of diversion.
- (3) That this approval does not validate the water right as claimed to be established by the diversion and beneficial use of water.

Dated this 26 day of JUNE, 1974.


R. KEITH HIGGINSON
Director

1st River
928-223 (509)

CLAIM
Identification No. 95-4139
Transfer No. 1999

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder Charles W. Power
Post office address Route #2, Box 157, Rathdrum, Idaho

2. Right obtained by:
a. Decree to _____ in Case of _____
(Name)
vs. _____, Dated _____ in _____
(Name of Court)
Court. County of _____.

b. Claim No. 95-4139 filed with
~~License~~ issued by the State of Idaho, Department of Reclamation.

3. Source of water Lower Twin Lake tributary to _____
(Name of stream or source)

4. Date of Priority 1900

5. Amount of water a. 0.11 c.f.s. and/or
b. _____ acre feet/annum

6. Water is used for Domestic, stockwatering from Jan. 1 to Dec. 31
(Month, Day) (Month, Day)

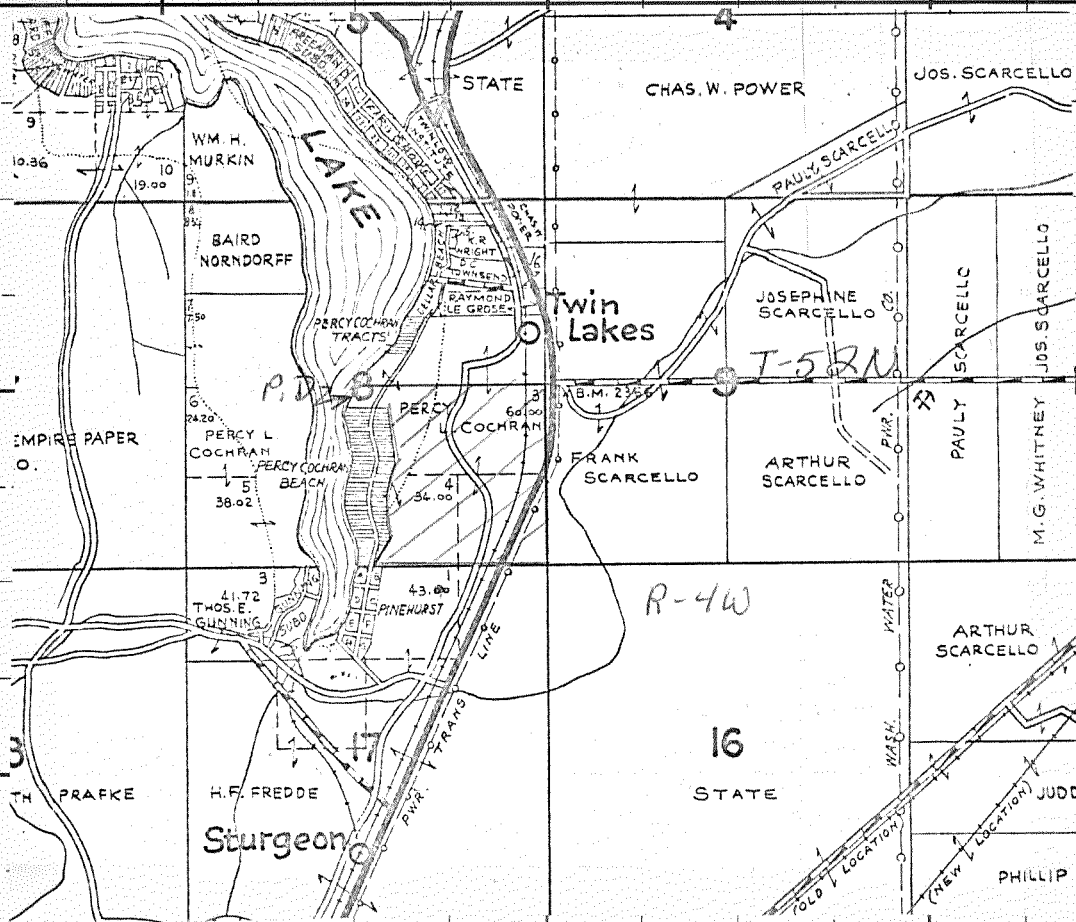
7. Original location of point of diversion is NW 1/4 NE 1/4 of Section 8,
Township 52N, Range 4W, B.M., in Kootenai County;
Additional points of diversion, if any _____

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
52N	4W	8	X																

Total number of acres presently irrigated _____

95 4139



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

9. If applicant was not the original holder of this right explain how it was acquired: _____

10. CHANGE IN POINT OF DIVERSION

- a. Quantity to be diverted at new point: 0.11 c.f.s. and/or _____ acre feet
- b. New point of diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 8, Township 52N
_____, Range 4W, B.M.
- c. Description of method of diversion and conveyance from new points of diversion: _____
5 h.p. pump to be relocated.

- d. Is water to be conveyed to the lands previously irrigated? Yes _____ No X.
If not, the place of use should be changed below.
- e. Describe the reasons for applying for a change in the point of diversion:
To use water on new ground, and to change the nature of use.

- f. Do you intend to make the transfer permanent? Yes
- g. Do you intend to abandon completely the old point of diversion? Yes

- h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

- a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			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 $\frac{1}{4}$	
52N	4W	8													40	40	40	40	160

Total number of acres to be irrigated 160

b. Do you intend to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

Yes

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right:

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Charles W. Power
(signature of applicant)

Subscribed and sworn to before me this 2ND day of OCTOBER, 1973

Corda M. Roberts
(notary public)

My commission expires SEPT. 11, 1976.

**ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 95-4139,
and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

Pursuant to Memorandum Decision and Order of this date.

2. Denial of said application is for the following reasons:

Witness my hand this 26 day of JUNE, 1974.

R. Keith Higginson
R. KEITH HIGGINSON, Director
Department of Water Administration

FOR DEPARTMENT USE ONLY

Received by KK Date 10/2/73

Prelim. check by KK Date 10/2/73

Fee received by KK Date 10/2/73 Fee \$ 10.00
11984

Approved for publication by JS

Published in Cal. Press Dates 10-11 & 10-18-73

Hearing held _____

Watermaster Recommendation sent _____

Protest filed by: _____ Date _____

Curran D. Dempsey 10-26-73

Board of Directors, _____

Upper Twin Lakes
Water Company 10-29-73

Re: Transfer No. 95-4139

RECEIVED

DEC 20 1973

Department of Water Administration
Northern District Office

If the transfer is approved, there will be no expansion of the original water right, either in cubic feet per second or acre feet per year. No more than 50 gallons per minute (0.11 c.f.s.) will ever be used, and when the acre foot volume figure, as determined by my Constitutional Use, has been used, no further water will be diverted that year. All diversion of water will be monitored both in gallons per minute and total volume used.

Signed this 20th day of December, 1973.

Charles Power
Charles Power

Subscribed and sworn to before me this 20th day of DECEMBER,
1973.

(S E A L)

Coda M. Roberts
Notary Public
Residing at COEUR D'ALENE

My commission expires on SEPT. 11, 1976.

5 4139

RECEIVED AFFIDAVIT OF PUBLICATION COEUR D'ALENE PRESS

(WEEKLY)

OCT 25 1973

STATE OF IDAHO, }
County of Kootenai, } ss.

Department of Water Administration
Northern District Office

Carol J. Hedge, being first duly sworn,
deposes and says:

That affiant is now, and at all times herein mentioned has been, a citizen of the United States and a resident of Kootenai County, State of Idaho, over the age of 21 years and not a party to, nor interested in the event of, the above entitled matter, and the printer (principal clerk) of the "Coeur d'Alene Press", during all of the times herein mentioned being a legal daily newspaper, of Coeur d'Alene, Kootenai County, Idaho, as defined by Idaho Code Sec. 60-106 to Sec. 60-108 both inclusive, and Chapter 121 Idaho Session Laws of 1949, and acts amendatory thereof and correlated thereto, and qualified thereunder to publish to the same effect as a weekly

newspaper on Wednesdays; and that the Application for water permit

95-4139 - Chas. Power

of which a printed copy is annexed hereto, was published in all the regular Wednesday weekly issues of said newspaper for 2 consecutive weeks, commencing

on the 11th day of Oct., 19 73, and ending on the

18th day of Oct., 19 73.

Subscribed and sworn to, before me, this 21th day of Oct.

19 73.

Carol J. Hedge

Clayton King

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 95-4139

Notice is hereby given that Charles W. Power, of Rt. 2, Box 157, Rathdrum, Idaho has applied to the Department of Water Administration for a change of the point of diversion, place of use, and the nature of use of the waters of Lower Twin Lake. The right sought to be changed is evidenced by Claim to a Water Right No. 95-4139 and is recorded as follows. Amount: 0.11 c.f.s. Priority: 1900 Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M., Kootenai County. The water is used for domestic & stockwatering purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.

TO BE CHANGED AS FOLLOWS

Amount: 0.11 c.f.s. Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M. The water will

be used for irrigation purposes within the SE $\frac{1}{4}$, Sec. 8, T. 52N R. 4W, B.M.

Any protests against approval of the proposed change of water right application must be filed with the Department of Water Administration, Statehouse, Annex No. 2, Boise, Idaho, on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Oct, 11, 18, 1973

95 4139

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that CHARLES W. POWER
(name of claimant)
of RT 2, BOX 157, RATHDRUM, ID
(mailing address), claims a right to the diversion and beneficial use of
ground water or surface water tributary to _____;

The extent and nature of said claim is as follows:

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) LOWER TWIN LAKE

(2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount	<u>.04</u>	Use	<u>DOMESTIC</u>	Period of Use:	From	<u>JAN 1</u>	To	<u>DEC 31</u>
Amount	<u>.07</u>	Use	<u>STOCKWATER</u>	Period of Use:	From	<u>JAN 1</u>	To	<u>DEC 31</u>
Amount		Use		Period of Use:	From		To	
	(cfs, gpm or a/f)		(dom., irri., stock, etc.)					(both dates inclusive)

(3) Total quantity of water claimed: 0.11 cubic feet per second, or _____ acre feet per annum, and/or 49 gallons per minute.

(4) Priority claimed: (the date water was first applied to beneficial use) 1900

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

(5) A) Point of diversion: (give location of point where water is diverted from its source)
~~NE 1/4~~ ~~NE 1/4~~, Sec. 8 Twp. 52N Rge. 4W B. M. County of KOOTENAI
Additional points of diversion: _____

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. PUMP AND PIPELINE TO PLACE OF USE

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			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	
52N	4W	8	X																

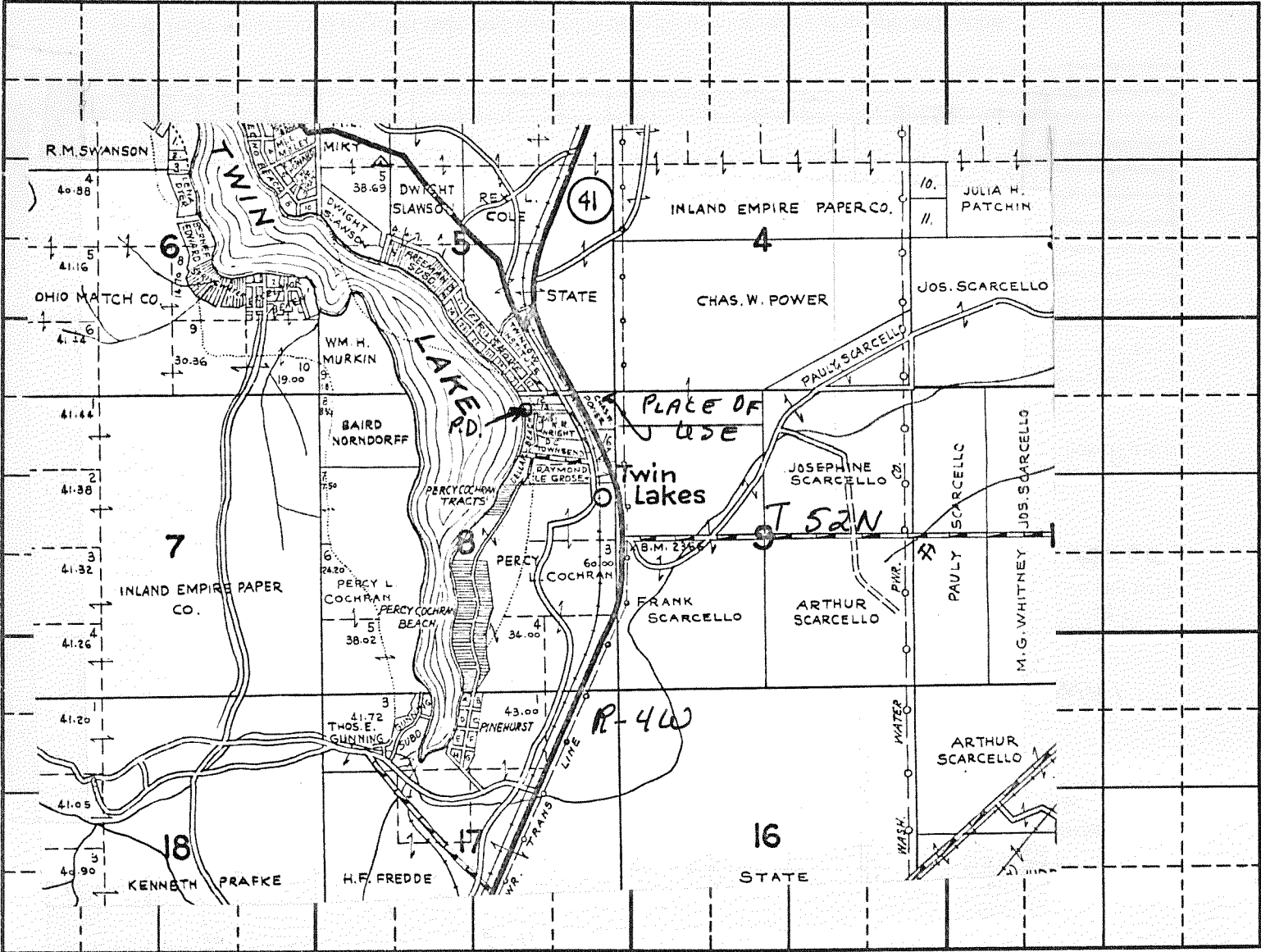
Total No. of acres _____

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____

DOMESTIC USE FOR ONE FAMILY
STOCKWATER FOR 1000 SHEEP

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho
County of Kootenai ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 24th day of August, 1973.
Charles W. Power (Claimant)
Laura J. Eisenhardt Notary Public
Residing at Coeur d'Alene
My commission expires 12-15-75

For Department Use Only

Received by <u>KK</u>	Date <u>8/24/73</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>KK</u>	Date <u>8/24/73</u>		claimant by:	
\$10.00 fee received by <u>KK</u>	Date <u>8/24/73</u>	<u>11892</u>		
Approved for publication by <u>FR</u>				
Published in <u>POST FALLS TRIBUNE</u>				
Dates <u>9-6 & 9-13-73</u>				

RECEIVED

SEP 18 1973

AFFIDAVIT OF PUBLICATION

Department of Water Administration

County of Kootenai }
STATE OF IDAHO } ss.

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 195-4139

Notice is hereby given that Charles W. Power, Route No. 2, Box 157, Rathdrum, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.11 cubic feet per second of water from Lower Twin Lake with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B. M., Kootenai County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic (0.04 cfs) and stock-watering purposes (0.07 cfs) with a priority of 1900; the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B. M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

Published in the Post Falls Tribune, Post Falls, Idaho, on Sept. 6 and Sept. 13, 1973.

9-6-2tc

JEANNETTE S. ROSIN, being first duly sworn, deposes and says that she is the publisher of THE POST FALLS TRIBUNE, a newspaper published weekly at Post Falls, Kootenai County, Idaho, and of general circulation therein.

That the Claim to A Water Right
#95-4139 Charles W. Power a true
printed copy of which is attached to the margin hereof, has been and
was correctly printed and published in the regular and entire issue of
every number of said newspaper and not in any supplement thereof
or thereto for two consecutive issues, commenc-
ing with the issue dated September 6, 1973
and ending with the issue dated September 13, 1973

Jeannette S. Rosin

Subscribed and sworn to before me, this 13th
day of September, 1973

C. Ames Luciani
Notary Public for the State of Idaho
Residing at Post Falls, Idaho

Publication Fee \$ 13.32
(36)

95 4139

March 22, 1977

Re: Claim No. 95-4139

Permit No. 95-7300

TLV., Ltd.
c/o Edward J. Parry
TREZONA, LORENZ, PARRY & ESPOSITO
Suite 302 Fidelity Bldg.
Spokane, Washington 99201

Gentlemen:

We acknowledge receipt of the assignment conveying the above referenced permit to TLV., Ltd. The assignment has been recorded and the Department's records have been changed.

We acknowledge also the assignment on the claim, however, the Department has no procedure for changing the records of ownership on a transfer or claim to a water right. These rights are considered to be appurtenant to the land to which they were transferred and are owned by the owner of that land.

We will, however, place the assignment of the claim in our files for future reference to present ownership.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:JFR

MICROFILMED

RECEIVED

MAR 14 1977

Department of Water Resources

ASSIGNMENT

TLV, INC., a Washington corporation authorized to do business in the State of Idaho, hereby conveys, assigns, and sets over to TLV, LTD., a limited partnership, all right, title and interest of Pack River Properties, Inc. to appropriate the public waters of the State of Idaho, described and evidenced in State of Idaho, Department of Water Administration Permit No. 95-4139, as amended or transferred.

DATED this 28 day of February, 1977.

TLV, INC., a Washington corporation
authorized to do business in Idaho

By

Robert E. Green
President

By

Pierre Huguenin
Secretary

STATE OF Idaho)

: ss.

County of Kootenai)

On this 28th day of February, 1977, before me, a notary public in and for the above-named county and state, personally appeared ROBERT E. GREEN and PIERRE HUGUENIN, to me known to be the President and Secretary, respectively, of TLV, INC., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Grace Bretthauer
Notary Public in and for the State
of Washington, residing at Spokane

Idaho

Bathbun

MICROFILMED

RECEIVED

MAR 14 1977

Department of Water Resources

ASSIGNMENT

PACK RIVER PROPERTIES, INC., a Washington corporation authorized to do business in the State of Idaho, hereby conveys, assigns, and sets over to TLV, INC., a Washington corporation authorized to do business in the State of Idaho, all right, title and interest of Pack River Properties, Inc. to appropriate the public waters of the State of Idaho, described and evidenced in State of Idaho, Department of Water Administration Permit No. 95-4139, as amended or transferred.

DATED this 11th day of February, 1977.

PACK RIVER PROPERTIES, INC.

By Charles Chastek
VICE - President

By Wayne Osborn
ASST. Secretary

STATE OF WASHINGTON)

: ss.

County of Spokane)

On this 11th day of February, 1977, before me, a notary public in and for the above-named county and state, personally appeared CHESTER CHASTEK and WAYNE OSBORN, to me known to be the VICE - President and ASST Secretary, respectively, of PACK RIVER PROPERTIES, INC., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Edward J. Rain
Notary Public in and for the State
of Washington, residing at Spokane

OFFICIAL SEAL

RECEIVED

State of Idaho

Department of Water Resources

RECEIVED

JUL 26 1974

JUL 30

ASSIGNMENT OF PERMIT

Department of Water Resources
Northern District Office

Department of Water Resources
I, Charles W. Power

, hereby assign to PACK RIVER PROPERTIES, INC.

of East 14208 Sprague Avenue, Spokane, Washington 99216

Address

CHECK ONE



All my right, title, and interest in and to Transfer ~~Permit~~ No. 95-4139
to appropriate the public waters of the State of Idaho.



The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 24th day of July, 19 74.

Charles W. Power
Permit Holder

Marianne C. Power
Spouse of Permit Holder

State of Idaho)

County of KOOTENAI) ss.

On this 24TH day of July, 19 74, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Corda M. Roberts

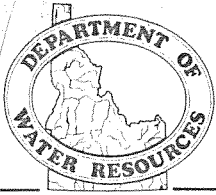
Notary Public residing at

COEUR D'ALENE, IDAHO

My commission expires:

SEPT. 11, 1974

95-4129



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

Statehouse
Boise, Idaho 83720
(208) 384-2215

R. Keith Higginson
Director

August 7, 1974

Re: Transfer No. 95-4139

Mr. Charles W. Power
Route 2, Box 157
Rathdrum, Idaho 83858

Dear Mr. Power:

We have received the assignment conveying the above referenced transfer to Pack River Properties, Incorporated.

We wish to advise you, however, that the Department has no procedure for changing the records of ownership on a transfer or claim to a water right. These rights are considered to be appurtenant to the land to which they were transferred and are owned by the owner of that land.

We will, however, place the assignment in our file for future reference as to present ownership.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

cc: Pack River Properties, Inc.

bc: Fred Eisenbarth
Northern District

MICROFILMED

WATER RESOURCE BOARD:

John F. Streiff
Chairman

Franklin Jones
Member

George L. Yost
Vice-Chairman

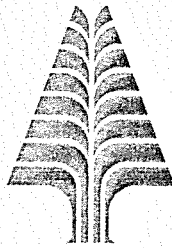
M. Reed Hansen
Member

Donald R. Kramer
Secretary

Scott W. Reed
Member

Edwin C. Schlender
Member

Joseph H. Nettleton
Member



RECEIVED

JUL 26 1974

Department of Water Resources
Northern District Office

Pack River Properties, Inc.

14208 E. Sprague, Spokane, Washington 99216 · (509) 928-2222 — 222 Cedar St., Sandpoint, Idaho 83864 · (208) 263-2222



July 3, 1974

RECEIVED

JUL 30 1974

Department of Water Resources

Mr. Charlie Power
General Delivery
Twin Lakes, Idaho 83858

Dear Charlie:

This letter is to confirm our conversation of Tuesday July 2, 1974 regarding the transfer of water permit. Transfer number 95-4139 with the change of point of diversion and a change of ground to be watered.

It is agreed that we will pay \$4,000. dollars to you, Charlie, with an additional \$400. dollars for the pump and pumping equipment, and electrical equipment, which is located at the existing point of diversion which you will remove and deliver to our shop at Twin Lakes Village.

It is also agreed that Howard Waterworks, Inc., which is the public utility company owning the water system at Twin Lakes, owned by Pack River Properties, Inc. will provide to you additional hook ups for residential use as you develop your property, located at your residence in the future. The extension of service and additional hook ups will be subjected to having adequate capacity to take on additional users, which we feel will be no particular problem in the future. We would like to have advance notice of your intention so that we can make preparation for the hook ups prior to the time you need them.

We also want your agreement that you will defend our water right after the transfer is completed should we have any protestants who wish to contest the transfer of the water right from you to us. *except Howard Waterworks* REH

Sincerely yours,

Robert E. Green

Robert E. Green
PACK RIVER PROPERTIES, INC.

REG/jo

X *Charles Power*
Mr. Charles Power
X *Mrs. Charles Power*
Mrs. Charles Power

95-4139

June 27, 1974

Re: Transfer No. 95-4139

Mr. Charles W. Power
Route 2 - Box 157
Rathdrum, Idaho 83858

Dear Mr. Power:

Enclosed herewith is a copy of your approved Application for Transfer of Water Right No. 95-4139 along with a copy of the Memorandum Decision and Order.

We direct your attention to the conditions of approval as set forth in the Order.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

Enc: Copy of transfer w/
Mem. Dec. & Order

cc: Mr. Curran D. Dempsey
Upper Twin Lakes Water Company
Mr. Robert E. Green

Enc: Copy of Mem. Dec. & Order

95 4139

T R A N S C R I P T I O N O F T A P E D R E C O R D

HEARING FOR TRANSFER NO. 95-4139 - CHARLES W. POWER

Community Room, Kootenai County Courthouse
June 13, 1974 - 3:00 p.m.

Persons Present: BOBBY D. FLEENOR, Hearing Officer, Department of Water Administration

FRED EISENBARTH, Northern District Manager, Department of Water Administration

CHARLES W. POWER, Applicant

CURRAN D. DEMPSEY, Protestant

PAUL D. McCABE, Attorney for Protestant

EDWARD PARRY, Pack River Properties, Inc.

ROBERT E. GREEN, Pack River Properties, Inc.

STANDLEY C. WALLCE, U.S. Bureau of Reclamation

BOBBY D. FLEENOR: This hearing is held this afternoon to consider Transfer to Claim No. 95-4139 filed by Charles W. Power. After some discussion concerning this Application for Transfer, the parties have reached an agreement and Mr. Paul McCabe, Attorney for the Protestant, has stipulation at this time.

PAUL D. McCABE: My name is Paul McCabe and I represent Curran Dempsey. On his behalf, we would be willing to stipulate that Mr. Power can prove a usage of 0.57 acre feet per year, representing domestic use, and that would be in-house use. That he can further prove 1.75 acre feet per year, representing irrigation on one-half acre. That he could also prove 0.93 acre feet per year representing 1,000 sheep, calculated at the rate of 2 gallons per head per day for 5 months out of the year. This would total 3.25 acre feet per year.

BOBBY D. FLEENOR: Thank you, Mr. McCabe. Is there anything further that we need to put on record at this time?

EDWARD PARRY: I think that the Protestant has just indicated that the other matters which might be of an issue are no longer an issue. Is that also stipulated?

PAUL D. McCABE: Which other matters are these?

EDWARD PARRY: The other matters raised in the protesting letters. I think you stated at the beginning of the informal hearing that there was no problem such as any interferences or damage to his water rights?

PAUL D. McCABE: The protest was filed based upon the expansion of use. It wasn't filed on the basis of detriment to an existing water right.

EDWARD PARRY: You are now stipulating that this is not an expansion?

PAUL D. McCABE: This would not--the 3.25 would not be an expansion; that is correct. As I say, we stipulate that Mr. Power would be able to prove this usage.

EDWARD PARRY: There's no other issues?

PAUL D. McCABE: Not that I'm aware of, no.

BOBBY D. FLEENOR: Can we leave with this--with this stipulation . . .

PAUL D. McCABE: Let me get, if I may interrupt, please; let me get something further on the record. Mr. Dempsey is--has been here listening to this stipulation; Mr. Dempsey, does this meet with your approval and does it accurately reflect what you are willing to agree to?

CURRAND D. DEMPSEY: Yes, if this concludes the matter and the (pause) this is the total of Mr. Power's water right which is being transferred to Pack River, I agree to the stipulation of 3.25 acre feet per year as being the correct figure for Mr. Power's water rights.

BOBBY D. FLEENOR: Thank you, Mr. Dempsey. Mr. Power, do you have any objection to the limiting of your water right to 3.25 acre feet per year?

CHARLES W. POWER: No, that settles it.

BOBBY D. FLEENOR: Thank you. Then I believe this would, in effect, be a withdrawal of the protest against the applicant, and the Department will take final action on the application shortly. I appreciate all your attendance here this afternoon. Thank you.

REMARKS

Stockwater. . . 0.11 cfs. . 0.55 A/F. . . 1,000 head/2 gal./day. . 6-1 to 3-31
Domestic. . . . 0.04 cfs. . 0.57 A/F. . . . 1 household. . . . 1-1 to 12-31
Irrigation. . . 0.02 cfs. . 1.75 A/F. . . . ½ acre 3-15 to 11-15
Domestic. . . . 0.11 cfs. . 1.33 A/F. . . . 4 houses, part . . . 5-1 to 11-30
TOTAL 0.11 cfs 4.20 A/F

The water has been pumped and beneficially used for domestic, irrigation, and stockwater. Mr. Nicky was the original owner in 1900. The water has been used for one domestic household (full time) and irrigation of ½ acre+ for large garden, lawn, and trees.

There are also 4 part time domestic rights which used water from the system. These 4 people paid \$10 a year for the use of the water. The part of the season in which water was used by the 4 domestics was from approximately May 1 to November 30. The water was also pumped for stockwatering purposes for 1,000 head of sheep.

Stockwater	2 gal./day/sheep X 1,000 sheep X 90 days = $\frac{180,000}{325,850}$ = 0.55 A/F
Irrigation	½ acre X 3.5/AF/acre = 1.75 A/F
Domestic	1 household (Full time) = 0.57 A/F
Domestic	4 households (Part time) 7 months = 4 X 0.57 AF X $\frac{7}{12}$ = 1.33 A/F

TOTAL: 4.20 A/F

95-4139 - CHARGES W. POWER TRANSFER

COA - 3/29/74

WAS ALSO FURNISHED WATER TO PRINCE, ETC.
STOCK WATERING WAS MAXIMUM CLAIM POSSIBLE
USE WOULD BE FOR GOLF COURSE -

50 gpm @ peak peak

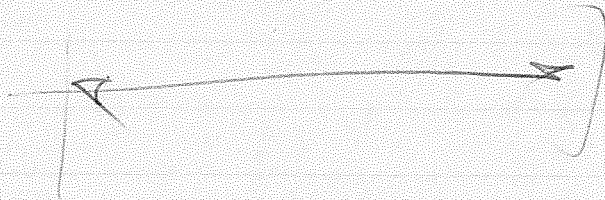
(1) CONTEST AS TO 1000 HEAD OF SHEEP

(2) 150 days stockwatering

51

MAY 15
OCT 15

POWER WILL SUBMIT
EVIDENCE ON



72' 50'

5000
100
250000
5
750,000
2.57

12

WRITE TO PARTIES - STIPULATION
TO WORD 30 DAYS - WILL ADVISE
10 DAYS TO RESPOND

95 4139

95-4139 - CHARLES W. POWER

Community Room, Kootenai County Courthouse
Coeur d'Alene, Idaho

June 13, 1974 - 3:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Curran D. Dempsey	7924 E. Hero Y Spokane, Wn. 99206	
Paul D. McLoe	BX 1338 CDA	Curran Dempsey
CW Power	Pte 2 Rathdrum	
Edward J. Perry	302 Facility Bldg Spokane	Pack River Resort
Robert E. Green	14208 E. Sprague	Pack River Resort
Stanley C. Wallace	Post Falls - U.S. Bu of Recl.	

95 4139

NAME AND ADDRESS OF SENDER

DEPT. OF WATER ADMIN., Northern District

Indicate type of mail

☐ INSURED

☐ C. O. D.

☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

NOTICE OF HEARING

POSTMARK AND DATE OF RECEIPT

May 23, 1974

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT ¹	R. R. FEE	S. D. FEE	S. H. FEE ²	RESTRICTED DELIVERY FEE
REMARKS									
1	749182 Charles W. Power, Route 2, Box 157, Rathdrum, Idaho	0.10	.30			.15			95-4139
2	749183 Curran D. Dempsey, 7924 E. Heroy, Spokane, Wash.	"	"			"			95-4139
3	749184 Paul D. McCabe, Attorney, 401 Front, Coeur d'Alene, ID	"	"			"			95-4139
4									
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TOTAL NUMBER OF PIECES LISTED BY SENDER (3) Three	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER, PER (Name of receiving employee)	¹ Mark "F" if "Fragile," "P" if "Perish if "Butter," "FL" if "Fragile-Liquid," and " ² Special-handling charges apply only to special-handling service.
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SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

Deliver ONLY to addressee

Show address where delivered

RECEIPT

Received the numbered article described below

SIGNATURE OF NAME OF ADDRESSEE (Must always be filled in)

Paul D. McCabe

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

REGISTERED NO.

CERTIFIED NO.

749184

INSURED NO.

DATE DELIVERED

MAY 30 1974

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

95 4139

95 4139

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

In the Matter of Protest Against Approval }
of Application for Transfer No. 95-4139 }
in the name of CHARLES W. POWER }

NOTICE OF CONFERENCE
AND/OR HEARING

On October 2, 1973, Charles W. Power filed with the Department of Water Administration an application for transfer of water right. Protest was received from Curran D. Dempsey.

The Department has set the matter of protest for conference and/or hearing for Thursday, June 13, 1974, at 3:00 p.m., in the Community Room of the Kootenai County Courthouse, Coeur d'Alene, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Administration. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestant may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 23 day of MAY, 1974.


FRED EISENBARTH, JR.
Northern District Manager

95 4139

May 14, 1974
Curran D. Dempsey
7924 East Hero
Spokane, Wash. 99206

R. Keith Higginson
Director Department of
Water Administration
State of Idaho, State Office
614 State Street
Statehouse - Annex 2
Borise, Idaho 83720

Re Transfer of
water Right No.
95-4139

RECEIVED

MAY 16 1974

Department of Water Administration
Northern District Office

Dear Mr. Higginson,

This letter is in response to your letter of April 24, 1974 concerning the Charles W. Power proposed transfer of point of diversion under his claimed water right.

We do dispute that Mr. Power is entitled to divert 2.81 acre feet annually based upon his claim made last fall.

We hereby formally request a public hearing as soon as possible. I have made arrangements for Mr. Paul McCabe of Coeur d'Alene, Idaho to represent me as my attorney. Please send copies of all future correspondence concerning this matter to him as well as to me.

At the hearing we would like to have the opportunity to crossexamine Mr. Power concerning from whom the sheep were purchased etc. as outlined in my letter to you of April 11, 1974.

We would also like to have the opportunity to show that the period of use for watering sheep was never claimed for a period exceed-

ing 5 months. The 2.8/acre-foot figure referred to in your letter of May 7, 1974. would give Mr. Power 2 gallons a day for each sheep for 12 months.

Yours sincerely,
Curran D. Dempsey

Mr. McCabe's address is shown below.

Paul D. McCabe
Attorney at Law
Post Office Box 1338
Coeur d'Alene, Idaho 83814
{ 210 First Federal Savings & Loan
Association Building

Tel. No. - Business - 208 - 667-7444

May 7, 1974

Mr. Curran D. Dempsey
7924 E. Heroy
Spokane, Washington 99206

Re: Transfer of Water Right No. 95-4139

Dear Mr. Dempsey:

This is in response to your recent letter concerning the Charles W. Power proposed transfer of point of diversion under his claimed water right. In your letter, you have suggested some different figures as an evaluation of the right claimed by Mr. Power to the waters of Twin Lakes. We had indicated in my letter dated April 24, that we were prepared to approve the transfer, based upon Mr. Power's claim, subject to a limitation of diversion of 2.81 acre feet of water annually. If you still disagree that Mr. Power may be entitled to divert that quantity of water, it would be necessary that we set the matter for public hearing.

Please advise by return mail so that we might know what further steps to take concerning this matter.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:mjr

cc: Mr. Fred Eisenbarth
Mr. Charles W. Power

95 4139

RECEIVED

MAY 6 1974

Department of Water Administration

May 3, 1974

R. Keith Higginson
State of Idaho
Dept. of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Re: Transfer of Water Right No. 95-4139 - Charles W. Powers

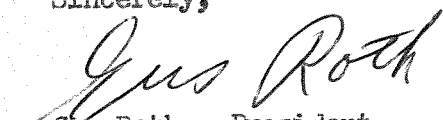
Dear Mr. Higginson:

This is to advise you of our accord in your decision in this matter as indicated in your letter of April 24, 1974 addressed to Mr. Powers.

For our part, no further hearings are necessary provided that all provisions of this notice are enforced.

Thank you for your consideration of our interest in this matter.

Sincerely,


Gus Roth - President
Board of Directors
Upper Twin Water Company
Route #2
Rathdrum, Idaho 83858

GR:ee

95 4139

C. D. Dempsey
7724 East Heroy
Spokane, Wash. 99206
May 1, 1974

Mr. R. Keith Higginson
Director, Dept. of Water Administration
State of Idaho
Statehouse - Annex 2
Boise, Idaho 83707

RECEIVED

MAY 3 1974

Department of Water Administration

Re: Transfer of Water Right No. 95-4139

Dear Mr. Higginson,

An unsigned copy of your letter of April 24 was mailed by your office to me. The letter states that you have decided to determine the amount of water to be transferred on the basis of domestic use for one household plus 2 gallons per day for 1000 sheep.

I believe the amount of water has been calculated incorrectly on the basis described above. In the Conference of March 28, 1974 in Coeur d'Alene, you did state that domestic use for one family was considered to be 150 000 gallons annually by the State of Idaho. This figure calculates to be .46 acre-feet instead of the .57 stated for domestic use in your letter of April 24.

In addition, the usage by Mr. Powers for sheep was never claimed in his affidavit of April 1, 1974 or during the March 28 Conference for a period exceeding 5 months. The 2.24 acre-feet would represent 2 gallons/day for

95 4139

365 days. Therefore the correct figure should be approximately $5/12$ of 2.24 or .93 acre-feet.

The total amount of water to be transferred should then be 1.39 acre-feet instead of the 2.81 you were contemplating authorizing.

The calculations are shown below:

1 acre-foot = 43,560 cubic feet of water
1 cubic foot = 7.481 gallons

$$150,000 \frac{\text{gal.}}{\text{yr.}} \times \frac{\cancel{\text{ft}^3}}{7.48 \text{ gal.}} \times \frac{\text{Acre-foot}}{43,560 \cancel{\text{ft}^3}} = .46 \frac{\text{acre-foot}}{\text{yr.}}$$

$$2 \frac{\text{gal.}}{\text{day}} \times 1000 \times \frac{365 \text{ days}}{\text{year}} \times \frac{\cancel{\text{ft}^3}}{7.48 \text{ gal.}} \times \frac{\text{Acre-foot}}{43,560 \cancel{\text{ft}^3}} =$$

$$= 2.24 \text{ acre-foot / year}$$

but $5/12$ of 2.24

$$= .93 "$$

$$\frac{.93}{1.39} \text{ acre-foot / yr.}$$

As Pack River develops its properties at Twin Lake it will need ever-increasing amounts of water. For this reason we believe the totalizing meter to be installed by Pack River should be checked by the State Dept. of Water Administration at least annually, and readings should be submitted to the State monthly since potentially Pack River is a very large user.

We would be willing to forego a formal hearing if the above alleged discrepancies could be cleared and a State check over Pack River usage assured.

Yours sincerely,

Curran D. Pemberton

April 24, 1974

Mr. Charles W. Power
Route #2, Box 157
Rathdrum, Idaho 83858

Re: Transfer of Water Right No. 95-4139

Dear Mr. Power:

At the conference held in Coeur d'Alene on March 28, 1974, you agreed to furnish this office with information which would substantiate your claim that your past use of water from Twin Lakes consisted of domestic use in one household and watering of 1,000 head of sheep. Since the hearing, you have furnished us with a notarized statement signed by yourself and Mr. Ozie C. Thayer, but no further evidence is apparently available.

The issue in the protest to your transfer appears to be a question of the amount of water formerly diverted from the lake. The protestants do not contest the fact that you have diverted water. The information which I gave at the conference is in error, since I indicated that we had previously recommended to the courts an allowance of 5 gallons per day per sheep. Our recommendation has been only for 2 gallons per day per sheep. Based upon the information you have submitted to us and recommendations previously recognized by courts in this state, we are prepared to approve your transfer with a limitation of .57 acre feet per year for domestic use and 2.24 acre feet per year for the watering of sheep. This would give a total of 2.81 acre feet annually, which would be diverted at the new point of diversion. Our approval would require that a measuring device consisting of a totalizing meter be installed at the new pumping site to record the total amount of water diverted.

The purpose of this letter is to inquire as to whether you or the protestants still wish a formal hearing to be convened concerning this matter before this office takes any further action. May we hear from all parties within 10 days so that our further action may be finalized?

Very truly yours,

R. KEITH HIGGINSON

Director

RKH:mjr

cc: Upper Twin Lakes Water Company
Curran D. Dempsey
Pack River Properties

95 4139

RECEIVED

APR 12 1974

Department of Water Administration

MEMO

TO: R. KEITH HIGGINSON
FROM: Fred Eisenbarth
DATE: April 11, 1974
SUBJECT: Sheep (Transfer No. 95-4139 - Charles W. Power)

The attached letter is a reply from Mr. Curran Dempsey in reference to the evidence submitted by Charlie Power to verify the number of sheep watered in 1954.

I am completely lost as to what should be done next. In talking with Paul McCabe, Mr. Dempsey's Attorney, he stated that a hearing is unnecessary. Possibly a decision can be reached without the need of such hearing. Mr. Dempsey's letter states that the number of sheep should be determined by our Department. If that is the case, then we have no alternative but to accept Mr. Power's Affidavit as true and to approve the Transfer accordingly.

Mr. McCabe stated that if a volume of 2.6 acre feet was stated on the Transfer, and a condition of approval be subject to a measuring device being installed, that his client may be satisfied.

Please let me know what the next step is. Perhaps you would prefer to handle it from this point on. I never could count sheep.


Fred
Northern District

95 4139

April 11, 1974

RECEIVED

APR 11 1974

Department of Water Administration
Northern District Office

Mr. Fred Eisenbarth
Northern District Manager
State of Idaho Department
of Water Administration
Coeur d'Alene, ID 83814

Dear Mr. Eisenbarth:

I wish to protest the Affidavit by Mr. Charles W. Powers of April 1, 1974 concerning purchase, grazing and sale of a certain band of sheep in 1954. I cannot accept the Affidavit in that it alleges no facts that can be checked.

From whom were the sheep purchased; to whom were they sold? What was the name of the herder? On whose property were they grazed June 1st to September 15th in addition to Mr. Powers' own land? On whose property were the sheep grazed September 15th to November 15th? What water Supply was actually used during the period in question?

The lender, Rathdrum Bank, has been closed since 1955. Part of the sheep were sold to Armour & Company in Spokane before taking the remainder to Mr. Powers ranch. Armour closed its Spokane Plant several years ago.

Since the sheep were held less than one year, no personal property tax had to be paid and therefore, there is no record that can be checked at the County Courthouse in Coeur d'Alene.

I have decided that the matter of number of sheep is something only the Department can decide.

95 4139

I also wish to protest the fact that there is at the present time, nothing in writing in the way of claim of water right or application for transfer of water right to show what total volume of water annually Mr. Powers is claiming as a water right and applying for transfer.

As Mr. McCabe and I stated at the conference on March 28th, we are willing to accept the 150,000 gallons per year domestic use and 5 gallons per sheep daily for such period of time as Mr. Powers can prove as a basis for determining the water right being transferred once the number of sheep are determined by the Department or agreed on between Mr. Powers and myself.

I want Mr. Powers to amend his claim of water right and application for transfer of water right to state the total acre feet annually per year claimed and to be transferred and made a part of the public record.

I request that a metering device be employed and supervised by the Department of Water Administration to insure that only the allowable amount of water is actually diverted and applied.

Yours Sincerely,

Curran D. Dempsey

Curran D. Dempsey

MEMO

TO: File

FROM: Fred Eisenbarth

DATE: April 4, 1974

SUBJECT: Application for Transfer No. 95-4139

On March 28, 1974, a conference was held on Application for Transfer No. 95-4139 in the name of Charles W. Power from Twin Lakes. At the conference, it was decided that if Mr. Powers could verify the existence of the number of sheep watered and submit this evidence to the protestants and our Department, a decision could be made on the Transfer without the need of a hearing.

The evidence is to be submitted to the protestants for their review. The protestants then have ten days to reply to our Department. If the protestants do not want to accept the evidence and have reasonable cause, then a hearing will be scheduled with testimony given in which our Department can make a decision on the approval or denial of the Application for Transfer.

A handwritten signature in cursive script, appearing to read "Fred Eisenbarth", is written over a horizontal line.

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

April 4, 1974

Re: Application for Transfer No. 95-4139 - Charles W. Power

Board of Directors
UPPER TWIN LAKES WATER COMPANY
Route 2
Rathdrum, ID 83858

Gentlemen:

Enclosed is a copy of the Affidavit submitted by Mr. Charles Power in accordance with the agreement discussed during the conference held March 28, 1974. As stated in this conference, you shall have ten days in which to respond stating your acceptance or rejection of this Affidavit.

If an agreement cannot be reached after your review of this Affidavit, it will be necessary to schedule a hearing later. At this hearing, testimony will be taken so our Department may reach a decision.

Please contact our office if there are any questions.

Very truly yours,

FRED EISENBARTH
Northern District Manager

FE:cp

Enclosure

cc: Upper Twin Lakes Water Co.

bcc: Mr. Higginson ✓

95 4139

April 1, 1974

To Whom it may concern;

This is to verify that We, Osie C Thayer and Charles W. Power Did form a partnership June 1 1954 to buy and feed sheep. That we did in fact buy several bunches of sheep totalling 1750 Head 500 head were sold To armour & Co of Spokane. The remaining 1250 were hauled to Charles Power's Ranch Where they were sheared, and put in charge of a professional Herder. They were held & herded as far as round Mountain until September They were then taken to the Rathdrum Prairie and herded on grain stubble until November they were then driven to Hauser Lake and loaded in boxcars, shipped to and sold at Billings Montana.

We do certify that the forgoing Is a true and Accurate Account of this transaction.

Charles W Power

Osie C. Thayer

STATE OF IDAHO, COUNTY OF KOOTENAI

On this 2nd, day of April, 1974, before me, a notary public in and for the State of Idaho, personally appeared before me, Charles W. Power & Osie C. Thayer, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Kenneth F. Hess
Kenneth F. Hess

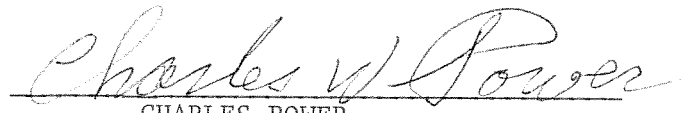
NOTARY PUBLIC for the State of Idaho
residing at Rathdrum, Idaho.

My Commission Expires Jan. 25, 1975

I am sorry that this Affidavit is the only proof I have of this transaction. Neither Mr. Thager nor myself have any records beyond 1960. The sheep were financed through the Rathdrum State Bank which closed in April of 1955, so I could not get any bank records.

However, when I bought the farm from Mr. Hatch in June, 1949, his water line was serving five homes, including Mr. Dempsey's. He had four horses, a cow, about 100 chickens, and a large garden. In 1965, I had four homes, including Mr. Dempsey's, 32 cattle, 12 horses, and 75 sheep.

There have been four homes on this line constantly since I bought the farm which, with my livestock, would entitle me to more water than I have asked for. I hope this will satisfy all interested parties with no hard feelings on anyone's part.


CHARLES POWER

Subscribed and sworn to before me a Notary Public in and for the State of Idaho, this 3rd day of April, 1974.

(S E A L)


Notary Public
Residing at Coeur d'Alene, Idaho

My commission expires September 11, 1976.

95-4139 - Charles W. Power

Community Room
First Federal Savings & Loan Building
Coeur d'Alene, Idaho

March 28, 1974 - 1:30 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
CW Power		
W.C. Joubert	Rt 2 Rathdrum	Upper Twin Water Co.
Geo Roth	Rt 1 Rathdrum	Upper Twin Water Co.
Dick Shore	Rt. 2 Rathdrum	upper Twin water Co.
L.P. Chase	4908 Glenrose Dr. Spokane	Upper Twin Lakes Property Owners
Steve J. McWilliams	4119 S. Altamont Spokane, Wash	Upper Twin Lakes Water Co.
Art Sorensen	Rathdrum, Id	Pack River Properties
R.E. Green	14208 E. Sprague	
Curran Dempsey	7924 E. Henry	Myself
Paul D McKittrick	BX 1338 CDA	Atty for Curran Dempsey.

95 4139

NAME AND ADDRESS OF SENDER

Water Administration - Northern District

Indicate type of mail

☐ INSURED ☐ C. O. D.
☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

NOTICES OF HEARINGS

POSTMARK AND DATE OF RECEIPT March 7, 1974

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT ¹	R. R. FEE	S. D. FEE	S. H. FEE ²	RESTRICTED DELIVERY FEE
1	745746 Upper Twin Lakes Water Co., Rt. 2, Rathdrum, ID 83858	.10	.30			.15			95-4139
2	-----								95-7302
3	-----								95-7379
4	745747 Clepton P. Holm, Rt. 2, Box 604, Lower Twin Lakes, ID	"	"			"			95-7302
5	745748 Bureau of Reclamation, P.O. Box 043, Boise, ID 83702	.20	"			"			95-4139
6	-----								95-7302
7	-----								95-7379
8	-----								95-7418
9	745749 Thomas A. Mitchell, Attorney for East Greenacres Irr.								
10	----- Co., 316 Elder Bldg., Coeur d'Alene, ID 83814	.10	"						
11	745750 Lake Forest Homes, 3107 E. 11 Ave., Spokane, WA 99202	"	"						
12	745751 Twin Lakes Improvement Assoc., W. 3408 Hartson, Spokane	"	"						
13	745752 Roger Bacon, Rt. 2, Box 600, Rathdrum, Idaho 83858	"	"						
14	745753 Sidney N. Moore, Chairman, East Greenacres Irr. Co.,								
15	----- Rt. 1, Post Falls, Idaho 83854	"	"						
16	745754 Rudolph Stammerjohan, Rt. 2, Rathdrum, Idaho 83858	"	"						
17	745755 Curran D. Dempsey, 7924 E. Heroy, Spokane, WA 99206	"	"						
18	745756 Charles W. Power, Rt. 2, Box 157, Rathdrum, ID 83858	"	"						
19	<i>Sent by Certified Mail 3-7-74.</i>								
20	<i>Corda Patterson</i>								
TOTAL NUMBER OF PIECES LISTED BY SENDER Eleven (11)		TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE		POSTMASTER, PER (Name of receiving employee)		¹ Mark "F" if "Fragile," "P" if "Perish if "Butter," "FL" if "Fragile-Liquid," and ² Special-handling charges apply only to special-handling service.			

POD Form 3877-A—JULY 1958

U. S. GOVERNMENT PRINTING OFFICE

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RECEIPT

Received the numbered article described below

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

REGISTERED NO. 745746
CERTIFIED NO. 745746
INSURED NO.
DATE DELIVERED 3-12-74
SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

Upper Twin Lakes Water Co.
SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Lois Roth

95 4139

95 4139

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

In the Matter of Protests Against Approval
of Application for Transfer No. 95-4139 in
the name of CHARLES W. POWER

NOTICE OF CONFERENCE
AND/OR HEARING

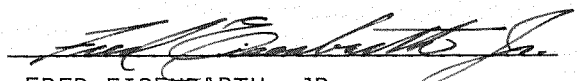
On October 2, 1973, Charles W. Power filed with the Department of Water Administration an application for transfer of water right. Protests were received from the Upper Twin Lakes Water Company and Curran D. Dempsey.

The Department has set the matter of protests for conference and/or hearing for Thursday, March 28, 1974, at 1:30 p.m., in the Community Room of the First Federal Savings and Loan Building, 401 Front Avenue, Coeur d'Alene, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Administration. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department without prejudice to dismiss the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 6th day of March, 1974.


FRED EISENBARTH, JR.
Northern District Manager

95 4139

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

March 6, 1974

First Federal Savings and
Loan Association
401 Front Avenue
Coeur d'Alene, ID 83814

Gentlemen:

This is to confirm the use of the Community Room for conference and/or hearing to be held by this office on Thursday, March 28, 1974.

Thank you for your cooperation in this matter.

Very truly yours,

Corde Patterson
Secretary
Northern District



IN REPLY
REFER TO: 424
870.

United States Department of the Interior
BUREAU OF RECLAMATION

FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

RECEIVED
FEB 19 1974
RKA

Department of Water Administration

FEB 15 1974

RECEIVED

FEB 22 1974

Department of Water Administration
Northern District Office

Mr. R. Keith Higginson, Director
Department of Water Administration
State of Idaho
Statehouse, Annex 2
Boise, Idaho 83707

Dear Mr. Higginson:

Recently members of my staff met with you and members of your staff concerning water right applications at Twin Lakes. Two applications now pending are application for water permit No. 95-7302 by Upper Twin Lakes Water Company and application No. 95-7418 to Rudolph and Esther M. Stammerjohan. We understand that others also may be pending in your office.

As you know, the East Greenacres Irrigation District currently holds the water right in Twin Lakes. This supply is insufficient for a full water supply and has been the subject of recent litigation. The Bureau of Reclamation is currently in process of constructing the East Greenacres Unit, Rathdrum Prairie Project, which will replace the East Greenacres Irrigation District Twin Lakes water source with water from deep wells. Construction is scheduled for completion in 1976.

The project as authorized by Congress requires the waters currently diverted for irrigation remaining in the lake and thereby being available for the benefit of recreation, fish and wildlife enhancement. This arrangement was recognized in repayment contract between the East Greenacres District and the United States, dated June 1, 1972. Article 25 of this contract contains the following provision relative to transfer of Twin Lakes water rights to the United States:

"Transfer of Water Rights, Dam, Appurtenant Facilities and
Rights of Way for Use in Maintenance of Level of Lakes

25. The Contractor agrees that after completion of the project works under this contract and project water becomes fully available therefrom and the United States having perfected its rights to said



95 4139

project waters, it will, on request of the United States, transfer by appropriate documents its existing water rights in Twin Lakes, with the transfer document concurred in by the State of Idaho, and its dam, outlet works, damsite, and all other facilities appurtenant thereto, and rights of way therefor to the United States or some other entity designated by the United States for use in maintaining the level of those lakes as near constant as possible for recreation and fish and wildlife enhancement."

We are not sure how much of the water right now held by the East Greenacres Irrigation District will be required to maintain the optimum level of Twin Lakes for the purposes of recreation and fish and wildlife enhancement. We are now commencing a study to determine that quantity and also define any surplus to the water needed to maintain the lake level. Consequently, we suggest that since the East Greenacres District will be using its water right for one more season before transferring it to us and since we have not completed our study to determine the portion of that water right for recreation and fish and wildlife purposes, you deny all applications until we have completed our study and have forwarded the information to you.

You also suggested that the Bureau investigate a municipal and industrial-type water project for the Twin Lakes community. We presently are not authorized to do so under the Rathdrum Prairie Project. We also have no study authorization or funds at this time for that purpose. However, if the people around Twin Lakes want such a study, we would certainly oblige and attempt to get the necessary authorization and funds.

Sincerely yours,



Acting Regional Director

5 4139

October 29, 1973

Re: Application for Transfer No. 95-4139

Charles W. Power
Route #2, Box 157
Rathdrum, ID 83858

Dear Mr. Power:

We are enclosing copies of the protests filed against the issuance of the above referenced application for transfer of water right. You should be aware that the following are the principle items we can consider in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any further assistance, feel free to contact us.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:cp

bcc: Boise

95 4139

October 29, 1973

Re: Application for Transfer No. 95-4139 -- Charles W. Power

Board of Directors
UPPER TWIN LAKES WATER COMPANY
Route #2
Rathdrum, ID 83858

Gentlemen:

This is to acknowledge receipt of the protest to issuance of the above referenced application for transfer of water right. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of any further assistance, feel free to contact us.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:cp

bcc: Boise

95 4139

October 29, 1973

Re: Application for Transfer No. 95-4139 - Charles W. Power

Curran D. Dempsey
7924 East Heroy
Spokane, WA 99206

Dear Mr. Dempsey:

This is to acknowledge receipt of the protest to issuance of the above referenced application for transfer of water right submitted by Paul D. McCabe in your behalf. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water right injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of any further assistance, feel free to contact us.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:cp

cc: Paul D. McCabe
Attorney at Law

bcc: Boise

95 4139

OK
FE 10/29/73

BOARD OF DIRECTORS
UPPER TWIN LAKES WATER COMPANY
Route 2, Rathdrum, Idaho

RECEIVED

OCT 29 1973

Department of Water Administration
Northern District Office

Gus Roth

GUS ROTH - President
Box 128 Rt. 2
Rathdrum, Idaho

Linton M Benham

L. M. BENHAM - Vice-president
Rt. 2, Box 132
Rathdrum, Idaho

Stuart J. McWilliams

STUART J. MCWILLIAMS - Sec. Treas.
S. 4219 Altamont St.
Spokane, Washington

Richard Shove

RICHARD SHOVE - Manager
Rt. 2, Box 116
Rathdrum, Idaho

W. C. Tomlin

W. C. TOMLIN - Director
Rt. 2, Box 135-B
Rathdrum, Idaho

October 28, 1973

RECEIVED

OCT 29 1973

Idaho Dept. of Water Administration
401 Front Street
Coeur d' Alene, Idaho 83814

Attention: R. Keith Higginson
Director

Department of Water Administration
Northern District Office

Re: Claim to Water Right No. 95-4139
Charles W. Power
Route # 2, Box 157
Rathdrum, Idaho 83858

Dear Mr. Higginson:

With regard to the subject Claim No. 95-4139 and the application to change the point of diversion and use thereof, we wish to protest the approval of such changes on the following grounds:

1. That the change of use from domestic and stock watering to irrigation would constitute an enlargement in use of the claimed water right. It is our understanding that the applicant diverted water in the past under the subject claim for the purpose of watering a small garden and a few head of cattle. The demands of such usage did not nearly approach the volume of .11 cfs as stated in the claim.
2. We further understand that the applicant wishes to change the point of diversion to a point on grounds held by Pack River Co. and that Pack River Co. intends to use such waters for the purpose of irrigating a golf course and other lands under their control, in the vicinity of the proposed changed point of diversion. It is our contention that such usage would constitute a violation of the terms of a water right, license or permit. This contention is predicated on the fact that if these waters are diverted for the use of another user, than the claimant, an application for exchange or assignment must first be executed. Further that the maximum acres that would be irrigated under the limits of the claimed water right could not exceed five and one-half acres ($5\frac{1}{2}$). If then Pack River Co. is to be the recipient of these waters, the acreage to be watered by them greatly exceeds this amount and in all probability the maximum allotted volume would be exceeded in cfs and/or acre ft. per year.

At this time we are unable to document these allegations. What we do request is that this application for a change of use and change in point of diversion be denied until such time as a hearing and investigation can be conducted to determine the facts in this matter.

It should be further noted that Lower Twin Lake does not contact the proposed point of diversion (NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 52 N, R 4W, BM.)

4139

as published in the notice. However, the Pack River Property does lie within the SE $\frac{1}{4}$ of Sec. 8, T. 52 N, R 4W, B. M.)

If a hearing is denied in the matter of this application, then we request that said application be denied. If said application be granted then we petition that metering devises be installed to guarantee that the amount of water not exceed that granted in the claimed water right.

Respectively yours,
UPPER TWINLAKES WATER COMPANY
BOARD OF DIRECTORS

BOARD OF DIRECTORS
UPPER TWIN LAKES WATER COMPANY
Route 2, Rathdrum, Idaho



GUS ROTH - President
Box 128 Rt. 2
Rathdrum, Idaho



L. M. BENHAM - Vice-president
Rt. 2, Box 132
Rathdrum, Idaho



STUART J. MCWILLIAMS - Sec. Treas.
S. 4219 Altamont St.
Spokane, Washington



RICHARD SHOVE - Manager
Rt. 2, Box 116
Rathdrum, Idaho



W. C. TOMLIN - Director
Rt. 2, Box 135-B
Rathdrum, Idaho

October 28, 1973

RECEIVED

OCT 29 1973

Idaho Dept. of Water Administration
401 Front Street
Coeur d' Alene, Idaho 83814

Attention: R. Keith Higginson,
Director

Department of Water Administration
Northern District Office

Re: Claim to Water Right No. 95-4139
Charles W. Power
Route # 2, Box 157
Rathdrum, Idaho 83858

Dear Mr. Higginson:

With regard to the subject Claim No. 95-4139 and the application to change the point of diversion and use thereof, we wish to protest the approval of such changes on the following grounds:

1. That the change of use from domestic and stock watering to irrigation would constitute an enlargement in use of the claimed water right. It is our understanding that the applicant diverted water in the past under the subject claim for the purpose of watering a small garden and a few head of cattle. The demands of such usage did not nearly approach the volume of 0.11 cfs as stated in the claim.
2. We further understand that the applicant wishes to change the point of diversion to a point on grounds held by Pack River Co. and that Pack River Co. intends to use such waters for the purpose of irrigating a golf course and other lands under their control, in the vicinity of the proposed changed point of diversion. It is our contention that such usage would constitute a violation of the terms of a water right, license or permit. This contention is predicated on the fact that if these waters are diverted for the use of another user, then the claimant, an application for exchange or assignment must first be executed. Further that the maximum acres that could be irrigated under the limits of the claimed water right could not exceed five and one half acres (5½). If then Pack River Co. is to be the recipient of these waters, the acreage to be watered by them greatly exceeds this amount and in all probability the maximum allotted volume would be exceeded in cfs and/or acre ft. per year.

At this time we are unable to document these allegations. What we do request is that this application for a change of use and change of point diversion be denied until such time as a hearing and investigation can be conducted to determine the facts in this matter.

It should be further noted that Lower Twin Lake does not contact the proposed point of diversion (NW¼SE¼, Sec. 8, T. 52 N, R 4W, B. M.)

95 4139

as published in the notice. However, the Pack River Property does lie within the SE $\frac{1}{4}$ of Sec. 8, T. 52 N, R 4W, B. M.

If a hearing is denied in the matter of this application, then we request that said application be denied. If said application be granted then we petition that metering devises be installed to guarantee that the amount of water, not exceed that granted in the claimed water right.

Respectively yours,
UPPER TWINLAKES WATER COMPANY
BOARD OF DIRECTORS

OK
25. 10/26/73

Paul D. McCabe - ATTORNEY AT LAW

October 26, 1973

RECEIVED

OCT 26 1973

Department of Water Administration
Northern District
401 Front Avenue
Coeur d' Alene, Idaho

Department of Water Administration
Northern District Office

Gentlemen:

I am enclosing a protest to proposed change of water right, #95-4139, as submitted by Curran D. Dempsey.

From Mr. Dempsey's figures, it would appear that the proposed change in water right is a mere subterfuge to allow an increased usage for the purposes of irrigation, which of course, is a different usage and one which would ordinarily require greater water than a domestic water right.

If there is anything further you would desire, please advise.

Yours truly,



Paul D. McCabe

PDM/mp

Enc.

95 4139

October 17 1973
RECEIVED

OCT 26 1973

Mr. Fred Eisenbarth

Northern District Manager

State of Idaho Dept. of Water Administration
Northern District Office

Cover d'Alene, Idaho

Dear Sir,

I wish to protest the granting of a permit to transfer "claims to a Water Right No. 95-4139, by changing the point of diversion, place of use and the nature of use of the waters of Lower Twin Lake. See attached Exhibit A - copy of newspaper clipping from Cover d'Alene Press.

My protest is based on my belief that the granting of the transfer will jeopardize my enjoyment of my own water right (never claimed in my own name) and also my enjoyment of 105 feet of Lower Lake Frontage for recreational use. See Exhibits B and C.

The granting of the transfer will jeopardize my water and recreational rights because it will enable a third party to take annually from the lake much more water than Mr. Power has used annually. Taking additional water from the lake will endanger use of the lake's waters for drinking and bathing and for some will ruin their beach altogether during the summer.

This year the waters of the lake were condemned by the State Dept. of Health during August because low water conditions had allowed rampant

growth of bacterial and algae organisms.

I dispute most of the pertinent facts alleged in Mr Powers's Claim to a water Right Claim 95-4139, and his Oct 2, 1973 application for transfer of water Right Claim 95-4139.

I believe the following facts can be established (1) that Mr. Powers has never grazed more than 300 sheep at one time on his property, and then only 15-20 years ago (2) that for the last 10 years he has never had more than a few head of stock of any kind on his place - about 5 horses and 2 cows at most. (3) that Mr. Power does not have an unusually large family - ^{wife and} 3 children & only ^{boy} 1 at home now. (4) that the amount of water claimed by Mr. Power for either domestic or stock watering use is unreasonably high. (5) that Mr. Power does not own any land or have any other legal land interest in the NW 1/4 SE 1/4 Sect. 8 T53N R4W B1M, the point to which he requests transfer of claim of water right. (6) that in fact the real reason for the proposed transfer is that he intends to sell or has already sold his claimed water right to Pack River Company for use in irrigating a golf course adjacent to its condominiums on the old Coctran place. (7) that Mr. Power still intends to get water from the lake by establishing a new water right and ^{plans to} still use the same pipe with perhaps a new pump or install a new pump and pipe on the 10 acre he owns adjacent to my property. (8) that Mr. Power does not now have

a legal right to exclusive use of the pipe described in his application as I own the portion of the pipe crossing my property and am entitled to use of the lake's waters and I and the preceding owners of my property have been getting water from the lake for domestic use and irrigating a pear orchard since 1900. I have not irrigated the pear orchard during my tenure.

Let us examine my assertion that the amount of water claimed by Mr. Power is unreasonably high.

The conversion factor for converting cubic feet per second or cfs to gallons per minute or gpm is 1.48. or $\text{cfs} \times 448 = \text{gpm}$

Using this formula

.11 cfs = approximately 50 gallons/minute
or 3000 gallons/hour
or 71000 gallons/day
or .8 gallons/second

A reasonable use for a single family for domestic use would be about .01 cfs or about 6400 gallons/day. A reasonable use for a single sheep would be 5 gallons/day. But let us allow 10,000 gallons/day for Mr. Power's family and 10 gallons per day for each of the 1000 sheep claimed by Mr. Power for a total of 20,000 gallons/day.

If my calculations are correct 20,000 gallons per day is only about .03 cfs

.03 x .448 = 13.44 gallons/minute
or 806 gallons/hour
or 19,344 gallons/day

I conclude that if the proposed transfer of water right NO 95-4139 is permitted the amount allowed should be no more than .03 cfs or cubic feet/second.

Mr. Power bought his property from Mr. Hatch, son in law of Mr. Nicky. Mr. Nicky sold Mr. Hatch the property now owned by Mr. Power.

I purchased my property from Mr. Crabtree who in turn got it from Mr. Nicky.

All of Mr. Powers property and mine were originally part of Mr. Nicky's homestead.

When I purchased my property from Mr. Crabtree, the pipe from the lake across my land to Powers served both my property and Mr. Powers. The pipe was originally installed by Mr. Nicky about 1900 and later rebuilt in about 1925 by Mr. Nicky.

Most of Mr. Powers property lies behind and above my property and away from the lake. Mr. Power does, however, own a 10 foot strip (from the lake back to the County road adjacent to the Railroad.) adjacent to my property on the North side which he has never utilized. The pipe line described in Mr. Powers application is not on this 10 foot strip but across my property as shown in the exhibit.

Thank you Mr. Eisenbach for reading this very long letter.

Yours Sincerely

Curran D. Dempsey
7924 East Henry
Shokan, N.Y. 12150

95 4139

WA 64296

RECEIVED

OCT 26 1973

Department of Water Administration
Northern District Office

LEGAL NOTICE

be used for irrigation purposes within the SE $\frac{1}{4}$, Sec. 8, T. 52N R. 4W, B.M. Any protests against approval of the proposed change of water right application must be filed with the Department of Water Administration, Statehouse, Annex No. 2, Boise, Idaho, on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Oct. 11, 18, 1973

NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that Idaho Department of Parks, Statehouse, Boise, Idaho has on September 25, 1973 submitted Application No. 96-7228 for a permit to appropriate 0.42 cubic feet per second of water from a ground water source by means of wells and pumps within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 3; SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 5; SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 9, T. 53N, R. 2W, B.M., Kootenai County to be used from March 15 to Nov. 15 for the irrigation of 21 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, T. 53N, R. 2W, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 401 Front Ave., Coeur d'Alene, Idaho, 83814 on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Oct. 11, 18, 1973

NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that Bernard Wellman, 6115 North Monroe, Spokane, Washington has on October 4, 1973 submitted Application No. 95-7381 for a permit to appropriate 1.6 cubic feet per second of water from a ground water source by means of well, pump, and pipeline within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, T. 52N, R. 4W, B.M., Kootenai County to be used from April 15 to Nov. 1 for the irrigation of 80 acres within the E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 28, T. 52N, R. 4W, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 401 Front Ave., Coeur d'Alene, Idaho, 83814 on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Oct. 11, 18, 1973

NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that Roger Bacon, Route No. 2, Box 600, Rathdrum, Idaho has on October 3, 1973 submitted Application No. 95-7380 for a permit to appropriate 0.2 cubic feet per

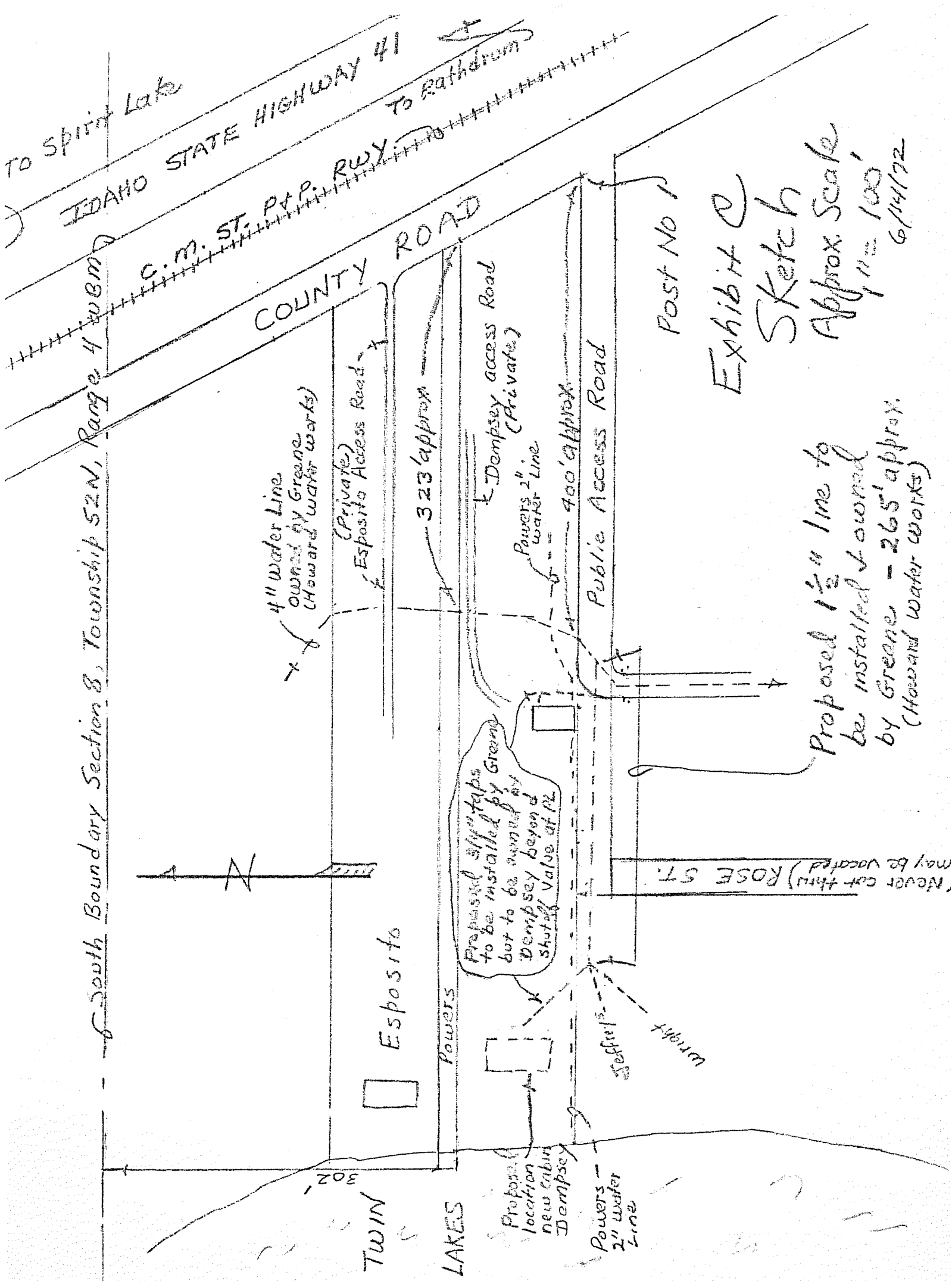
NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 95-4139

Notice is hereby given that Charles W. Power, of Rt. 2, Box 157, Rathdrum, Idaho has applied to the Department of Water Administration for a change of the point of diversion, place of use, and the nature of use of the waters of Lower Twin Lake. The right sought to be changed is evidenced by Claim to a Water Right No. 95-4139 and is recorded as follows. Amount: 0.11 c.f.s. Priority: 1900 Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M., Kootenai County. The water is used for domestic & stockwatering purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.

TO BE CHANGED
AS FOLLOWS

Amount: 0.11 c.f.s. Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M. The water will

95 4139



FOR SALE BY

METSKER MARS

1020 THIRD AVE., SEATTLE, WASHINGTON DATE-MAR. 1959

$396' = .15''$ $104.3' = .04''$
 $763' = .29''$ $110.2' = .04''$
 $837' = .32''$
 $827' = .31''$

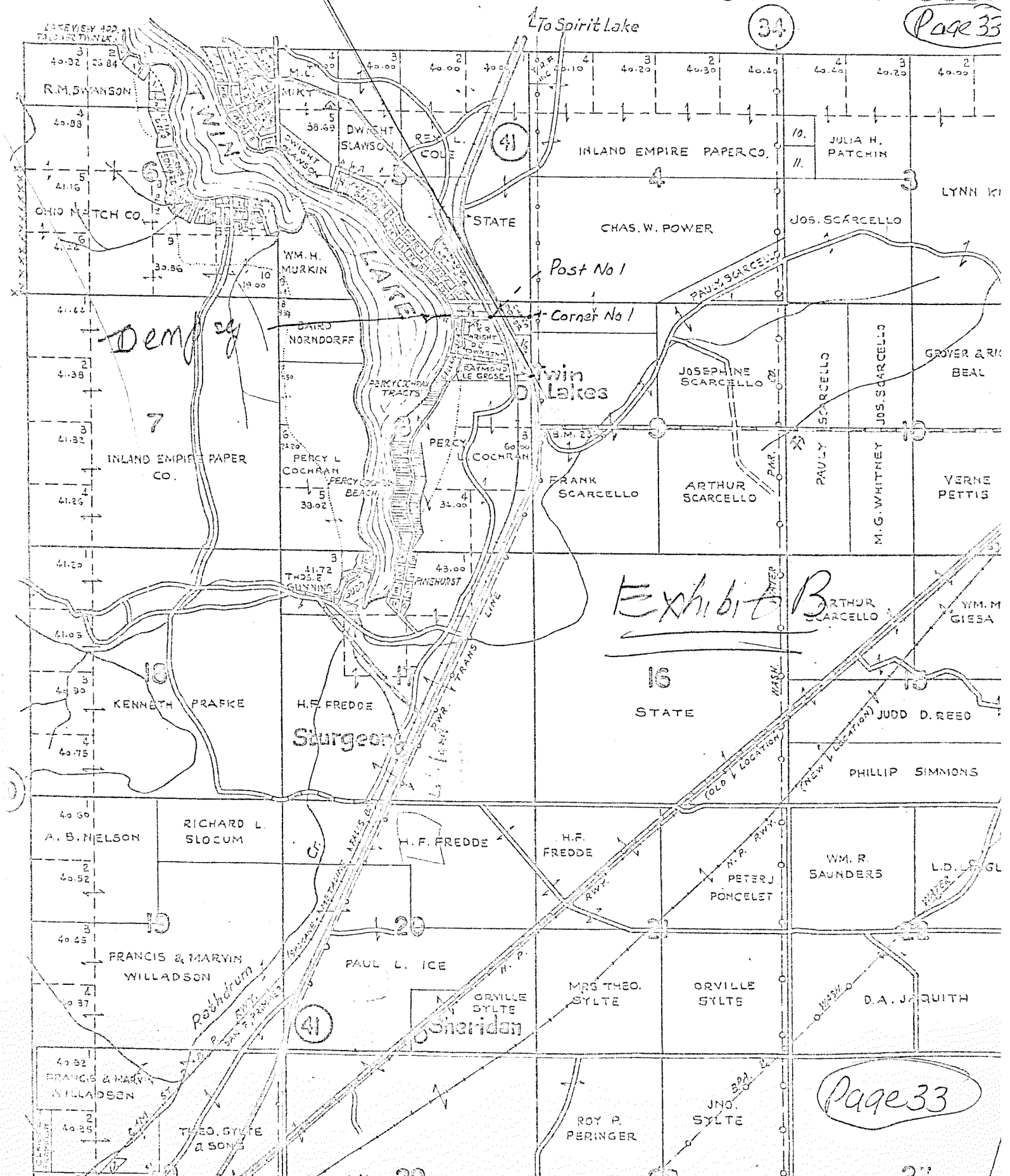
Scale Range 4 WBM
2" = 1 mile

TOWNSHIP 52 N., 1

KOOTENAI COUN

34

Page 35



Page 33

95 4139

October 5, 1973

Re: Application No. 95-7378 95-7381
" " 95-7379 96-7228
" " 95-7380 95-4139

Coeur d'Alene Press
Second & Lakeside
Coeur d'Alene, ID 83814

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. ~~In order to receive payment, the following certification must appear on the bill:~~

~~"I hereby certify that the foregoing account is just
--and correct; that the amount claimed is legally due,
--after allowing all just credits; and that no part of
--the same has been paid."~~

~~-(signature of claimant)~~

Very truly yours,

Fred Eisenbarth
Northern District Manager

Bill submitted 10-29-73 by CP

FE:CP

Enc: Legal Notices (6)

95 4139

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 95-4139

Notice is hereby given that Charles W. Power,
of Rt. #2, Box 157, Rathdrum, Idaho has applied to the Department of Water
Administration for a change of the point of diversion, place of ~~of the waters of~~
use, and the nature of use of the waters of Lower Twin Lake
The right sought to be changed is evidenced by Claim to a Water Right No. 95-4139
and is recorded as follows.

Amount: 0.11 c.f.s. Priority: 1900 Point of
Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M., Kootenai County
The water is used for domestic & stockwatering purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$,
Sec. 8, T. 52N, R. 4W, B.M.

TO BE CHANGED AS FOLLOWS

Amount: 0.11 c.f.s. Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.
The water will be used for irrigation purposes within the SE $\frac{1}{4}$,
Sec. 8, T. 52N, R. 4W, B.M.

Any protests against approval of the proposed change of water right application
must be filed with the Department of Water Administration, Statehouse, Annex #2,
Boise, Idaho, on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Published in the Coeur d'Alene Press, Coeur d'Alene, Idaho on
Oct. 11 and Oct. 18, 1973.

95 4139

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 95-4139

Notice is hereby given that Charles W. Power, of Rt. 2, Box 157, Rathdrum, Idaho has applied to the Department of Water Administration for a change of the point of diversion, place of use, and the nature of use of the waters of Lower Twin Lake. The right sought to be changed is evidenced by Claim to a Water Right No. 95-4139 and is recorded as follows. Amount: 0.11 c.f.s. Priority: 1900 Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M., Kootenai County. The water is used for domestic & stockwatering purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.

TO BE CHANGED
AS FOLLOWS

Amount: 0.11 c.f.s. Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M. The water will be used for irrigation purposes within the SE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.

Any protests against approval of the proposed change of water right application must be filed with the Department of Water Administration, Statehouse, Annex No. 2, Boise, Idaho, on or before October 29, 1973.

R. KEITH HIGGINSON
Director

Oct, 11, 18, 1973

O.K.
10-16-73
CP

95-4139

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

September 26, 1973

Re: Claim to a Water Right No. 95-4139

Charles W. Power
Route #2, Box 157
Rathdrum, ID 83858

Dear Mr. Power:

The Department of Water Administration has completed the processing of your claim to a water right, and no further action is authorized under Section 42-225a and 42-225b, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of a claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing, for your records, a copy of your claim. If you have any questions, or if we may be of any further assistance, feel free to contact us.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:CP

Enclosure

95 4139

August 31, 1973

Re: Application No. 95-7340 95-7345 96-4085
 95-7341 95-7348 96-4086
 95-7342 95-4138 96-4087
 95-7344 95-4139

Post Falls Tribune
Box 68
Post Falls, ID 83854

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

Fred Eisenbarth
Northern District Manager

Bill submitted 9-24-73 by CP

FE:CP

Enc: Legal Notices (11)

95 4139

NOTICE OF CLAIM TO A WATER RIGHT

NO. 95-4139

Notice is hereby given that Charles W. Power,

Route #2, Box 157, Rathdrum, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.11 cubic feet per second ~~acre feet per annum~~
of water from Lower Twin Lake

with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.,
Kootenai County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
(0.04 cfs) and stockwatering purposes (0.07 cfs)

with a priority of 1900;

the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho
83814.

R. KEITH HIGGINSON

Director

Published in the Post Falls Tribune, Post Falls, Idaho

on Sept. 6 and Sept. 13, 1973

95 4139

**NOTICE OF CLAIM
TO A WATER RIGHT**No. 95-4139

Notice is hereby given that Charles W. Power, Route No. 2, Box 157, Rathdrum, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.11 cubic feet per second of water from Lower Twin

Lake with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B. M., Kootenai County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic (0.04 cfs) and stock-watering purposes (0.07 cfs) with a priority of 1900; the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 52N, R. 4W, B. M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

Published in the Post Falls Tribune, Post Falls, Idaho, on Sept. 6 and Sept. 13, 1973.

9-6 2tc

OK.
9-10-73
CP

95 4139

August 30, 1973

Re: Claim to a Water Right No. 95-4139

Charles W. Power
Route #2, Box 157
Rathdrum, ID 83858

Dear Mr. Power:

Attached is your receipt No. 11892 in the amount of \$10 for the filing fee on the above referenced claim which was received in this office.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:CP

Enclosure

95 4139