

Form 1-222
12-92

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

PART 1

Contact: Roger Hunzeker

1. Name of Applicant Fred Hunzeker & Sons, Partnership Phone (208)847-1253Mailing Address 1041 Bench Road, Montpelier, ID 83254 (208) 540-0856 Cell

c/o Keith C. Wilson Rocky Mountain Environmental Associates, Inc.

482 Constitution, Ste 303

(208) 524-2353

Idaho Falls, ID 83402

Fax (208) 524-1795

A. PURPOSE OF TRANSFER1. ☐ Change Point of Diversion ☒ Add diversion point(s) ☒ Change Place of use☐ Change Nature of Use ☐ Change Period of Use ☒ Other Correct Legal description Place of Use.2. Describe the reason for the proposed changes: Better distribution of water & correct legal description of place of use.**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

1. Right Number Priority Amount Nature of Use Period of Use

11-7586	06/09/1915	4.33 cfs	Irrigation	04/15 to 10/31
		1.00 cfs	Stockwater	01/01 to 12/31

2. Total amount of water being transferred 4.33 cubic feet per second and/or ___ acre-feet per annum.3. Source of water Ovid Creek tributary to Bear River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local Name for Diversion
	NW	NW	NE	13	13S	43E	BEARLAKE	
	NE	NE	NW	13	13S	43E	BEARLAKE	
	NE	NE	NW	13	13S	43E	BEARLAKE	Thornock dam
	NE	SW	SE	14	13S	43E	BEARLAKE	
	SW	SW	SE	14	13S	43E	BEARLAKE	

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	
13S	44E	7											4.5/S						4.5
		18						35/S	33/S			32/S	32/S						132.0
		19						32/S	32/S			16/S							80.0

Total Acres 216.5

PART 1

6. General Information:

- a. Description of diversion system: Concrete diversion structure with a 3 foot culvert with a headgate to ditches for flood irrigation and stockwater.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☐ Yes ☐ No If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: N/A
- d. Remarks: 1200 pairs (2400 head) range cattle water out of ditches. Stock place of use is the same as irrigation. Correct legal description. Original claim lists Sec 17 as the legal, but instead of Sec 17 the warranty deed and the map include Sec 7, T13S, R44E.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 20__

for the Director



**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

WATER RIGHT NO. 11-7586

Owner Type Name and Address

Current Owner FRED HUNZEKER & SONS
1041 BENCH ROAD
MONTPELIER, ID 83254
(208)847-1253

Priority Date: 06/09/1915

Basis: Statutory Claim

Status: Active

Source Tributary

OVID CREEK BEAR RIVER

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/31 4.33 CFS

STOCKWATER 01/01 12/31 1 CFS

Total Diversion 4.33 CFS

Location of Point(s) of Diversion:

OVID CREEK NWNWNE Sec. 13 Township 13S Range 43E BEAR LAKE County

STOCKWATER Use: Number of stock: 2400

Place of Use Legal Description: IRRIGATION BEAR LAKE County

Place of Use Legal Description: STOCKWATER (Same as Irrigation)

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
13S	44E	17		SWSW	4.5									
		18		NWNW	35		SWNW	33						
				NWSW	32		SWSW	32						
		19		NWNW	32		SWNW	32						
				NWSW	16									

Total Acres: 433

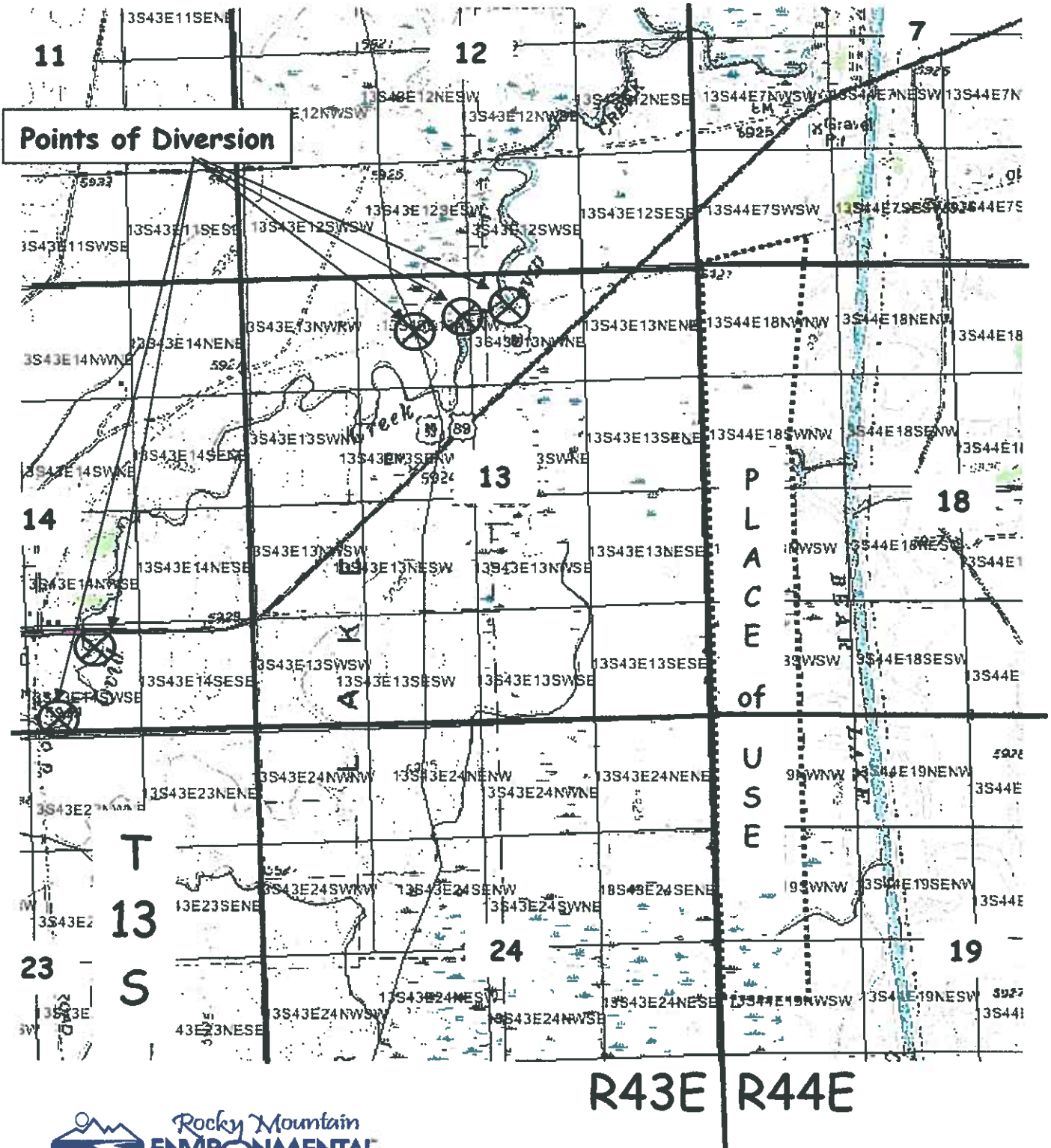
To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe

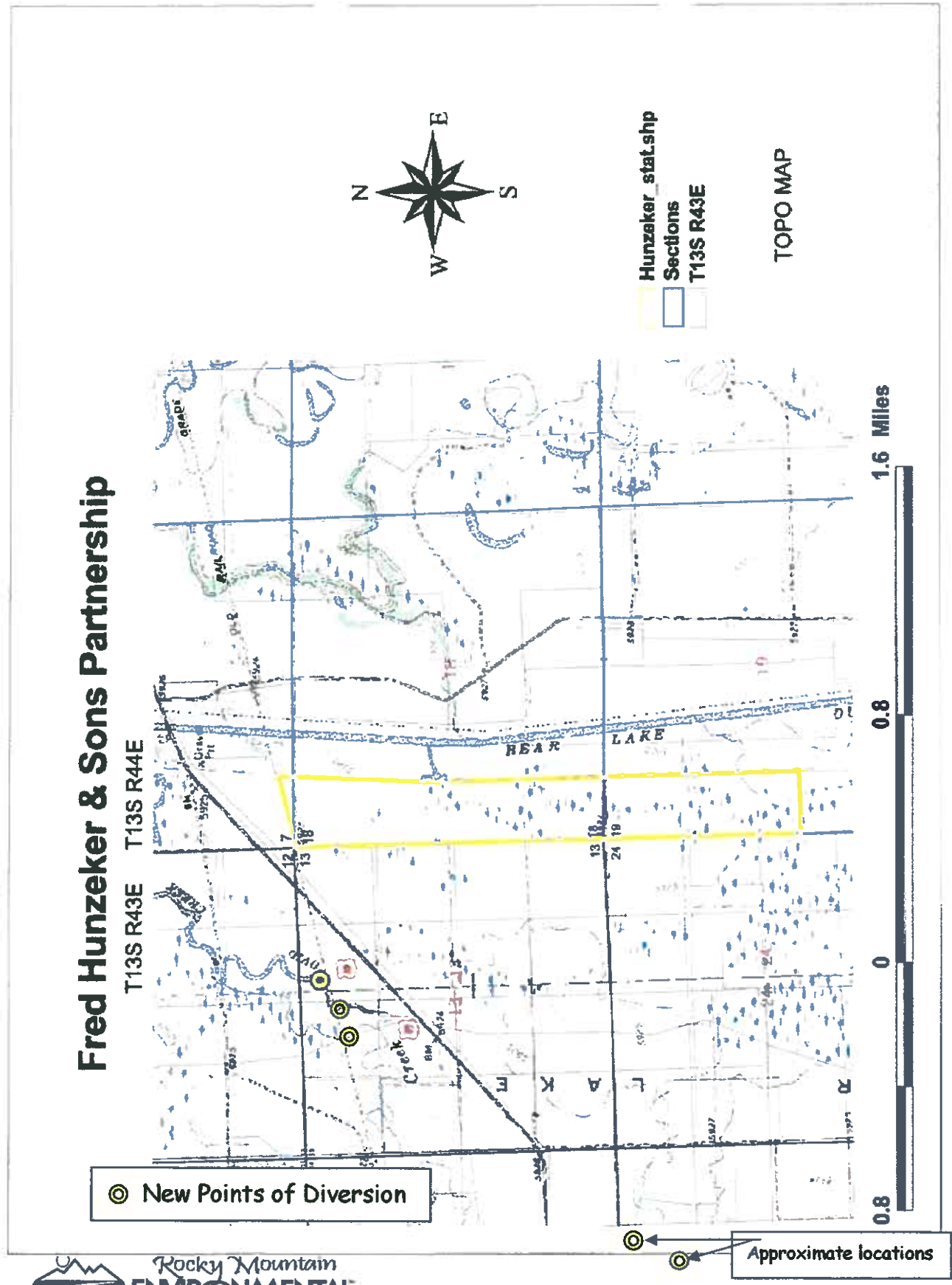


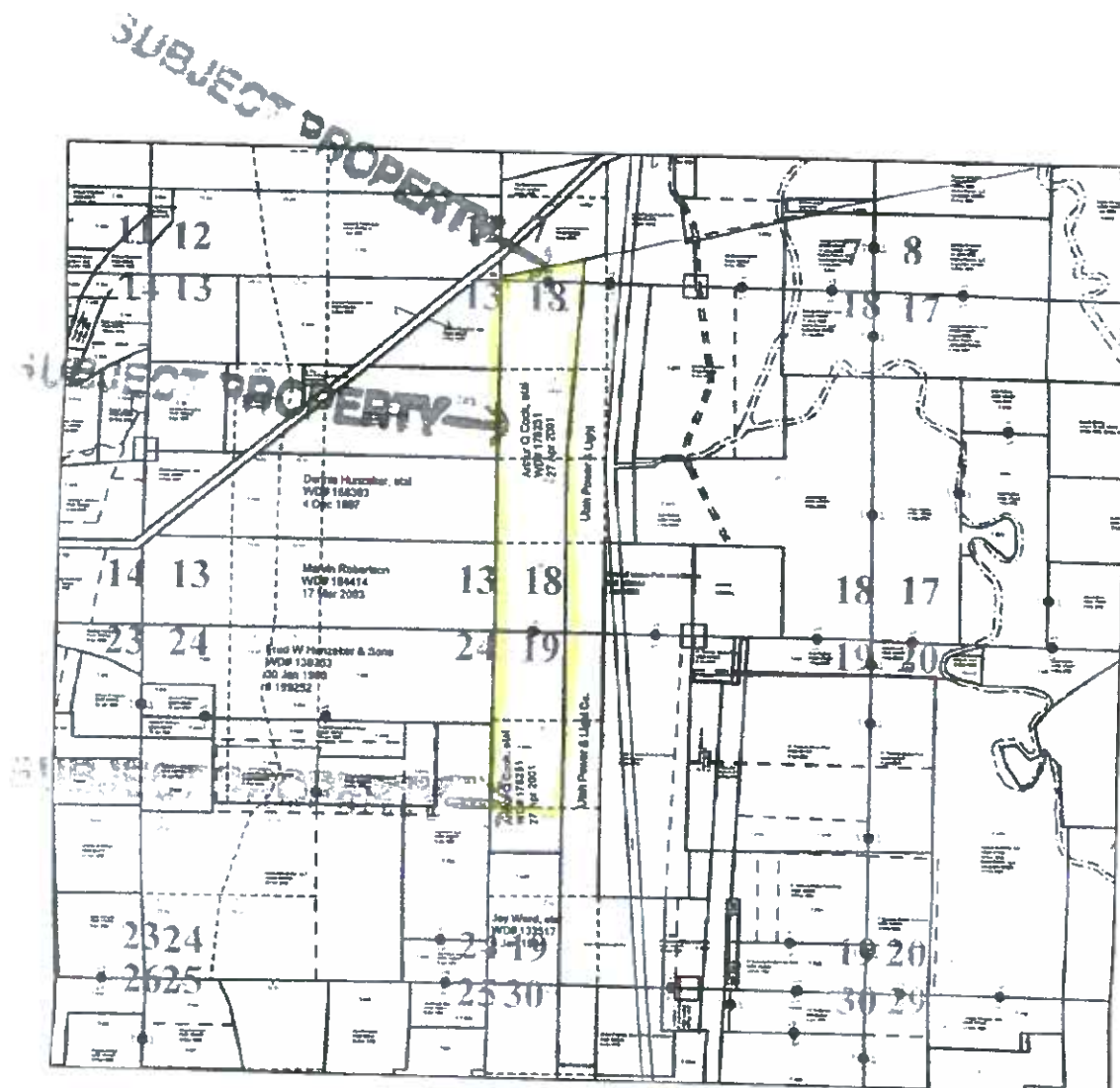
DEPARTMENT OF WATER RESOURCES APPLICATION FOR TRANSFER OF WATER RIGHT

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.







This sketch is provided without charge for your information, it is not intended to show all matters related to the property including, but not limited to area dimensions, encroachments, or location of boundaries. It is not a part of, nor does it modify the commitment or policy to which it is attached. The Company assumes NO LIABILITY for any matter related to this sketch. References should be made to an accurate survey for further information.*

PART 3

B. CHANGES IN NATURE OF USE

1. New Nature of Use Amount (cfs/af-ac) Hours/days/year Period of use
- _____ cfs _____ to _____
- _____ cfs _____ 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 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.

Dennis Hazzetier
(Signature of Applicant)

Dennis Hazzetier
Print Name (and title, if applicable)

Subscribed and sworn to before me this 7th day of May, 2008.

Christine A. Pope
(Notary Public)



My Commission expires: 01-26-2010

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 9 attachments

Received by _____ Date _____ Protest filed by _____

Prelim check by _____ Fee _____

Receipted by _____ Date 5/19/08 E034060

Published in News Examiner Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ By _____

Copy of transfer sent to lien holder _____

File #20050794
Tax I.D. #4090.01 & 4093

WARRANTY DEED

For Value Received,

CLYDE H. COOK and CAROLYN COOK, husband and wife,
of 530 SOUTH 1ST WEST, BERN, County of BEAR LAKE, State of ID. 83220.

THE GRANTOR(S)

do(es) hereby, grant, bargain, sell, and convey unto

FRED W. HUNZEKER & SONS PARTNERSHIP,
of 1041 BENCH ROAD, MONTPELIER, County of Bear Lake, State of ID. 83254.

THE GRANTEE(S).

For the sum of ten dollars and other good and valuable consideration, the following described tract of land in the County of Bear Lake, State of Idaho:

TOWNSHIP 13 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN:

Sections 7, 18 and 19: Beginning at a point 600 feet West and South 1980 feet from the Northeast corner of Lot 2 of said Section 19, and running thence North 5940 feet; thence North 4°46' East 3000 feet, more or less, to the North line of the Oregon Short Line Railroad right of way; thence South 76°15' West along said right of way 1254 feet, more or less, to the West line of said Section 7; thence South 8620 feet, more or less, to a point 1100 feet, more or less, West of the point of beginning; thence East 1100 feet, more or less, to the Point of Beginning.

EXCEPT THEREFROM that portion thereof lying within the following described tract, to-wit:

Beginning at a point which is 98.4 feet West of the Northeast Corner of Lot 3 of said Section 18, and running thence West 530 feet; thence North 4°46' East 2649 feet to the North line of Lot 1 of said Section 18; thence East 390 feet along the said North line of Lot 1; thence South 1600 feet; thence South 4°46' West 1050 feet to the Point of Beginning

To have and to hold the said premises, with their appurtenances unto the said Grantee(s), its heirs and assigns forever. And the said Grantor(s) hereby covenant to and with the said Grantee(s) that they are the owner(s) in fee simple of said premises; that they are free from all encumbrances, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED THIS November 14, 2005

STATE OF IDAHO, COUNTY OF BEAR LAKE

On this 14 day of November, 2005, before me a Notary Public in and for the State, personally appeared

CLYDE H. COOK and CAROLYN COOK,
husband and wife

known to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and seal the day and year in the certificate first above written.

Notary Public
Residing at: OVID, IDAHO
My Commission Expires: 7-7-2010

CLYDE H. COOK

CAROLYN COOK

Instrument # 193096

BEAR LAKE COUNTY

2005-11-15

10:22:44 No. of Pages: 1

Recorded for: FIRST IDAHO TITLE CO.

KERRY HADDOCK

Ex-Officio Recorder Deputy Fee: 3.00

WARRANTY DEED



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

74808



IDAHO SECRETARY OF STATE

Search Results

Ben Ysursa, Secretary of State

Search Result Summary

Search Results 1 through 2

(FRED HUNZEKER & SONS, INC ... FRED W HUNZEKER & SONS, PARTNERSHIP)

FRED HUNZEKER & SONS, INC [View Details]

Organizational ID / Filing number: C146820	Filed 23 Dec 2002
1041 BENCH RD	CORPORATION
MONTPELIER, ID 83254	ADMIN DISSOLVED

FRED W HUNZEKER & SONS, PARTNERSHIP [View Details]

Organizational ID / Filing number: K175	Filed 12 Apr 2004
1041 BENCH RD	PARTNERSHIP AUTHORITY (GP)
MONTPELIER, ID 83254	CURRENT

248

FILED EFFECTIVE
2011 APR 11 PM 2:30
STATE OF IDAHO

STATEMENT OF PARTNERSHIP AUTHORITY

(Instructions on back of application)

The undersigned partnership hereby files a statement of partnership authority, and submits the following information to the Secretary of State pursuant to Idaho Code § 53-3-303.

1. The name of the partnership is: FRED W HUNZEKER & SONS, PARTNERSHIP
2. The street address of its chief executive office is: 1041 Bench Road, Montpelier, Id 83254

3. The street address of one (1) office in Idaho: 1041 Bench Road, Montpelier, Idaho 83254

4. The names and mailing addresses of all partners (attached sheets may be added):

Name	Address
Dennis H. Hunzeker	338 Washington, Montpelier, Idaho 83254
Roger G. Hunzeker	960 Bench Road, Montpelier, Idaho 83254

OR the name and address of the registered agent in Idaho is:

5. The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership:

Dennis H. Hunzeker 338 Washington St Montpelier, Idaho 83254

6. Signature of at least 2 partners:

- 1) [Signature]
Typed Name Dennis H. Hunzeker
- 2) [Signature]
Typed Name Roger G. Hunzeker
- 3) _____
Typed Name _____

Secretary of State use only

IDAHO SECRETARY OF STATE
04/13/2004 05:00
CK: 3439 CT: 165934 SH: 738894
1 @ 100.00 = 100.00 PARTIAL AUT @ 2

K 175

WARRANTY DEED

For Value Received

FRED W. HUNZEKER and IDA MAY HUNZEKER, husband and wife
do hereby grant, bargain, sell and convey unto

FRED W. HUNZEKER AND SONS
Star Route 1 Montpelier, Idaho 83254

the premises, the following described premises, in Bear Lake County Idaho, to wit:

BEAR LAKE COUNTY RECORDER
JOAN P. EBORN

JAN 30 PM 2 32

Deputy Fee 4.00

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

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

Dated: January 30, 1986

Fred W. Hunzeker
Ida May Hunzeker

STATE OF IDAHO, COUNTY OF Bear Lake
On this 30th day of January, 1986,
before me, a notary public in and for said State, personally
appeared

Fred W. Hunzeker and
Ida May Hunzeker

known to me to be the persons whose names are
subscribed to this instrument, and acknowledged to
me that they executed the same.

Notary Public
Residing in
Comm. Expires

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record at
the request of

at _____ minutes past _____ o'clock in
this _____ day of _____
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$
Mail to:

INSTRUMENT NO

Commencing at the Northwest Corner of Section 24, Township 13 South, Range 43 East of Boise Meridian, in Idaho, and running thence South $89^{\circ}17'$ West 2620 feet; thence North $89^{\circ}30'$ West 1320 feet; thence South 1039.5 feet; thence East 3960 feet, more or less, to Section line; thence North 990 feet, more or less, to place of beginning.

ALSO: Commencing at the Northeast Corner of the West Half of the Northwest Quarter of Section 24, Township 13 South, Range 43 East of Boise Meridian, in Idaho, and running thence West 363 feet; thence South 720 feet; thence East 181.5 feet; thence South 330 feet; thence East 181.5 feet; thence North 1056 feet to the place of beginning.

ALSO: Commencing at the Northwest Corner of the Northwest Quarter of Section 24, Township 13 South, Range 43 East of the Boise Meridian, in Idaho, and running thence South 811.5 feet; thence East 1105.5 feet; thence North 811.5 feet; thence West 1105.5 feet to the place of beginning.

ALSO: Commencing at a point 990 feet South from the Northeast Corner of Section 24, Township 13 South, Range 43 East of the Boise Meridian, in Idaho, and running thence South $89^{\circ}17'$ West 3960 feet (to point 1039.5 feet South from the Northwest Corner of Lot 1); thence South 330 feet; thence North $89^{\circ}17'$ East 3960 feet; thence North 330 feet to point of beginning.

ALSO: Commencing at a point 1056 feet South of the Northeast Corner of the West Half of the Northwest Quarter of Section 24, Township 13 South, Range 43 East of the Boise Meridian, in Idaho, and running thence South 330 feet; thence West 231 feet to Ovid line; thence North along said Ovid line 330 feet; thence East 214.5 feet to the point of beginning.

ALSO: Commencing at a point 924 feet North of the Southeast Corner of the West Half of the Northwest Quarter of Section 24, Township 13 South, Range 43 East of the Boise Meridian, in Idaho, and running thence North 330 feet; thence East 231 feet to Ovid line; thence South along said line 330 feet; thence West 239 feet to point of beginning.

ALSO: Commencing at a point 1320 feet South from the Northwest Corner of the Northeast Quarter of Section 24, Township 13 South, Range 43 East of Boise Meridian, in Idaho, and running thence South $89^{\circ}17'$ West 1320 feet (to point 1369 feet South from the Northwest Corner of Lot 10); thence South 330 feet; thence North $89^{\circ}17'$ East 1320 feet; thence North 330 feet to the point of beginning.

ALSO: Commencing at the Northwest Corner of the Southwest Quarter of the Northeast Quarter of Section 24, Township 13 South, Range 43 East of Boise Meridian, in Idaho, and running thence South 396 feet; thence East 1320 feet; thence North 396 feet; thence West 1320 feet to the place of beginning.

WARRANTY DEED

For Value Received: Ida May Hunzeker
the grantor, does hereby grant,
bargain, sell and convey unto Fred W Hunzeker & Sons, Partnership
the grantee, the following described premises, in Bear Lake
County, Idaho, to-wit:

See attached EXHIBIT A

TO HAVE AND TO HOLD the said premises, with their
appurtenances unto the said Grantee, its' heirs and assigns
forever. And the said Grantor do hereby covenant to and with the
said Grantee, that she is the owner in fee simple of said premises;
that they are free from all encumbrances and that she will warrant
and defend the same from all lawful claims whatsoever.

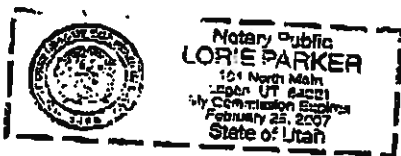
DATED:

Ida May Hunzeker
IDA MAY HUNZEKER

STATE OF Utah)
COUNTY OF Cache) ss.

On this 4th day of June, 2004, before me a notary public,
personally appeared Ida May Hunzeker, known or identified to me to
be the person whose name is subscribed to the within instrument,
and acknowledged to me that she executed the same.

Lorie Parker
NOTARY PUBLIC
Residing at: Logan, Utah
My Commission Expires: 2/25/07



2004 JUN 18 PM 4 47
Colman Kelsey
DEPUTY FEE

BEAR LAKE COUNTY RECORDER
JOAN F. EBORN

108611

Railroad right of way; thence South $77^{\circ}32'$ West along said right of way to the West boundary line of said Section 7; thence North 1456.125 feet, more or less, to the point of beginning.

ALSO, Beginning at the South quarter corner of said Section 7, and running thence North $89^{\circ}53'$ West 89 feet; thence North $6^{\circ}30'$ West 650 feet, more or less, to the North boundary line of the Oregon Short Line Railroad right of way; thence Northeasterly to the point where said right of way intersects the East boundary line of the SW $1/4$ SE $1/4$ of said Section 7; thence South 990 feet, more or less, to the Southeast corner of the said SW $1/4$ SE $1/4$; thence West 1320 feet, to the point of beginning.

Section 10 & 15: Beginning at the center of Section 15, thence West 616.44 feet to the West line of Lot 2 of said Section 15; thence Northerly along the West boundary line of lots 1 & 2 to the North line of said Section 15; thence West 820 feet more or less to the easterly right of way line of the Oregon Short Line Railroad, thence Northerly along said right of way to the North line of Lot 3, Section 10; thence Easterly to a point which is 990 feet West, North $60^{\circ}30'$ West 660 feet, North $7^{\circ}30'$ West 462 feet from the Northeast corner of the NW $1/4$ of said Section 15; thence East 528 feet; thence North 33 feet; thence East 1460 feet; thence Southerly 734 feet; thence East 437 feet more or less to the West boundary line of the old U.S. Highway No. 30; thence Southerly along said right of way line to a point 1320 feet East and 808.5 feet North to the point of beginning. Thence Southeast 990 feet more or less to a point 1854.5 feet East of the point of beginning; thence West 544.5 feet; thence South 1320 feet, thence West 1320 feet, thence North 1320 feet to the point of beginning.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT: Beginning at a point 1320 feet East and 485 feet North of the center of Section 15, thence West 370 feet; thence North 500 feet; thence East 320 feet more or less to the old right of way line of U.S. Highway No. 30, thence Southeasterly along said right of way line to a point East of the point of beginning; thence West to the point of beginning.

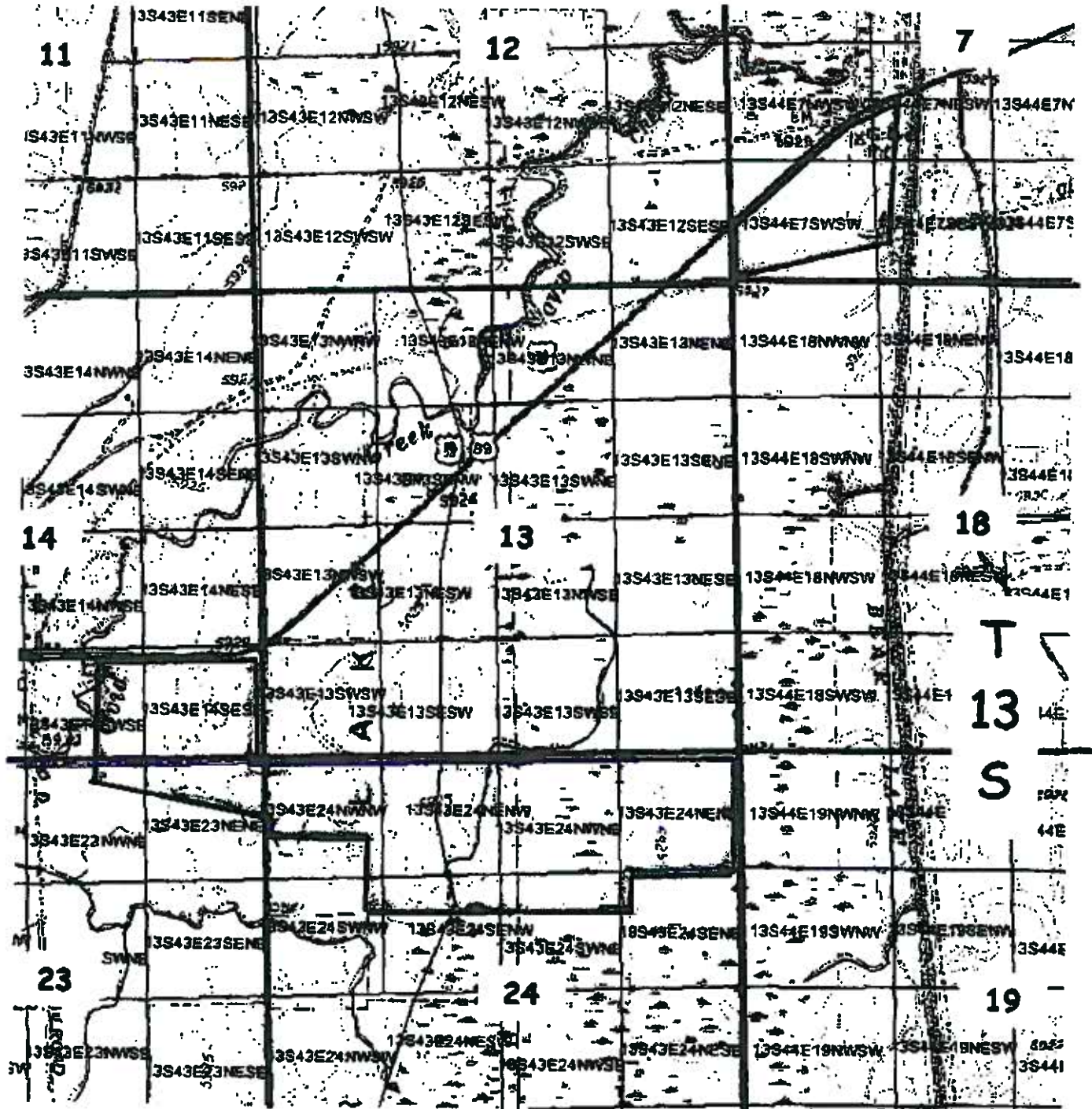
Section 18: E $1/2$ NW $1/4$, W $1/2$ NE $1/4$, EXCEPT THEREFROM the following described tract: Beginning at a point on the South boundary line of the NW $1/4$ of Section 18, which bears South $88^{\circ}53'$ East 1954 feet from the

West quarter corner of said Section 18; and running thence south $88^{\circ}53'$ East 93 feet; thence North $4^{\circ}29'$ East 2654 feet to the North boundary of Section 18; thence North $88^{\circ}53'$ West 80 feet; thence South $4^{\circ}46'$ West 2655 feet, to the point of beginning.

Township 13 South, Range 45 East of the Boise Meridian:

- Section 9: SE1/4SE1/4.
- Section 10: S1/2
- Section 11: W1/2SW1/4.
- Section 14: SW1/4NE1/4, S1/2NW1/4, NW1/4NW1/4, SW1/4.
- Section 15: E1/2, N1/2NW1/4.
- Section 22: NE1/4NE1/4.
- Section 23: N1/2NW1/4.
- Section 24: SW1/4NE1/4, NW1/4, SW1/4SW1/4, E1/2SW1/4, W1/2SE1/4.
- Section 25: W1/2NE1/4, NW1/4, W1/2SE1/4, SE1/4SE1/4.
- Section 27: SW1/4SW1/4.
- Section 28: SE1/4SE1/4.
- Section 33: E1/2E1/2.
- Section 34: W1/2NW1/4, NW1/4SW1/4.

Subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations, and mineral conveyances of record.



R43E R44E

For Transfers I need warranty deeds for the area outlined in RED





State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 12, 2010

Fred Hunzeker & Sons Partnership
1041 Bench Road
Montpelier, ID 83254

Re: Applications for Transfer 74806, 74807, and 74808

Dear Mr. Hunzeker,

In May 2008, you filed three transfer applications with the department, seeking to change some of the elements of three separate statutory claims (11-4095, 11-7585, and 11-7586). Transfers involving statutory or beneficial use claims require a considerable amount of review and can include significant procedural hurdles. In the past, the department has often "held" such transfers rather than invest the large amount of staff time needed to conduct the detailed review. Because your transfers involve disputed statutory claims, they have not been processed. This letter is meant to notify you that our office has recently begun an effort to address some of these "held" transfers involving statutory claims, including your three transfers.

Over the years, the department has developed a set of guidelines to assist its staff in processing transfer applications. These guidelines were created to provide a uniform system for reviewing transfers and ensure that the legal requirements governing transfers are being met. The current set of guidelines ("Transfer Processing Memo No. 24") states the following:

Applications for transfer proposing to change a water right based on a statutory or beneficial use claim must be reviewed to determine the validity, priority date, and extent of beneficial use established under the claimed right. Review must include field verification or other means to verify the right. . . . In addition, the applicant must be asked to provide information confirming the priority date of the claim.

The basis for this language is that the department, by statute, must verify that a water right is valid before approving a transfer of that water right. Statutory claims are generally created by the claimant and have not been validated by the department or a court. Therefore, before a statutory claim can be transferred, the department must verify that the claim constitutes a valid water right. All of the elements of the statutory claim must be verified (priority date, diversion rate, period of use, place of use).

In accordance with the transfer guidelines, before processing your transfers, the department must conduct a detailed review to determine the validity of your statutory claims. The first elements to be analyzed are the priority dates claimed. **Therefore, the department is requesting specific evidence of the priority dates listed on statutory claims 11-4095 (12/10/1864), 11-7585 (6/15/1892), and 11-7586 (6/9/1915).** I have enclosed a pamphlet titled "Evidence of Priority" that was distributed to claimants in the Snake

River Basin Adjudication. This pamphlet was meant to assist applicants in collecting and identifying documents that sufficiently establish a priority date.

I recognize that there was some evidence of priority submitted with two of the statutory claims (11-7585 and 11-7586) when they were filed. Evidence submitted with 11-7585 included a notarized statement from Wayne D. Johnson. The written statement was notarized in December 2007. Mr. Johnson states that the "Thornock Dam" has been in existence since 1864 and was included in a decree in 1889. He admits, however, that he has only owned and operated the land since 1942. Affidavits are sufficient evidence of priority only to the extent that they are based on personal knowledge (actual observations of the affiant). Mr. Johnson's statement is only sufficient to establish a priority date of 1942 because that is the beginning of his personal knowledge. A similar affidavit was submitted with claim 11-7586. Mr. Johnson states that the Thornock Dam was built in 1915 (which is a direct contradiction of his other affidavit). He also states that he has "seen this land irrigated personally since 1942." This affidavit would also support a 1942 priority date, but nothing earlier.

Please review the pamphlet and try to find physical or documentary evidence establishing a priority date for the water use described in the statutory claims. If the Thornock Dam has been an important irrigation feature in the community, there may be reference to its existence in old journals or town archives. The claimant ultimately bears the burden of proving the elements of his claim, including priority date. You may have difficulty finding evidence to support the priority dates listed in your statutory claims. Given this distinct possibility, it appears that you have three options with regard to your transfer applications:

Option 1: Locate and provide specific evidence supporting the priority dates listed in your statutory claims. Once sufficient evidence of priority is received, the department will finish the review of the statutory claims. This will likely include a field exam to verify the location of the existing points of diversion (listed in the claims), the number of acres irrigated, and the capacity of the delivery system. After the statutory claims have been validated, the transfer applications will be advertised to the public. If a transfer application is protested, the department will begin an administrative hearing process. If the transfer applications are not protested, they will be approved with conditions or will be denied.

Option 2: Locate and provide evidence of a later priority date. As stated above, the evidence already in the file would likely support a priority date of 1942. You may not be able to find reliable evidence tracing back to the early priority dates claimed. However, you may find evidence supporting a priority date earlier than 1942. Once sufficient evidence of any priority is received, the department will complete the field examination of the statutory claims and will finalize the transfer process as described above. This alternative may be less preferable, however, because the priority date of your statutory claim must be changed to agree with the evidence provided before the transfers can be considered. Any changes to the priority dates made by the department constitute a final administrative determination of the priority date.

Option 3: If you are unable to find any proof of priority dates or do not want to invest the time to track down evidence or do not want to have a late priority date affixed to your statutory claim, you can always withdraw the transfers. This can be done by sending the department a letter officially withdrawing the transfers. Although you will not be able to adjust your water delivery systems as contemplated in the transfers, you will at least preserve the priority date associated with your statutory claims for the time

being. You should be aware, however, that if an adjudication is ever held in the Bear River drainage, claimants will be expected to provide proof of priority date. Because you will likely have to validate the priority dates associated with your claims at some point in the future, it may be worthwhile to locate whatever evidence may exist today and add it to your statutory claim files.

To summarize, your transfer applications have been held by the department because they involve statutory claims and will require a detailed review before they can be approved. The department is beginning the process of reviewing some of these held transfers. The first part of the review of your transfers is establishing the validity of the priority dates listed in your statutory claims. You are officially being asked to provide sufficient evidence supporting your claimed priority dates. If you are unable to establish valid priority dates, the department is ultimately unable to approve the transfers and they will be voided. I am establishing a 60-day time period to collect and submit evidence supporting the claimed priority dates. If you are unable to provide evidence of priority on or before October 15, 2010, your applications for transfer (No. 74806, 74807, and 74808) will be voided due to a lack of evidence supporting the underlying statutory claims.

Thank you for your patience and cooperation in this matter. Feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Cefalo', with a stylized, flowing script.

James Cefalo
Water Resources Program Manager
IDWR – Eastern Region

Cc: Rocky Mountain Environmental

Encl: Evidence of Priority pamphlet (April 1991)

RECEIVED

OCT 18 2010

Department of Water Resources
Eastern Region

Hand delivered by
Keith Wilson from
Rocky Mountain Environment

August 12, 2010

Fred Hunzeker & Sons Partnership
1041 Bench Road
Montpelier, ID 83254

Re: Applications for Transfer 74806, 74807, and 74808

Dear Mr. Hunzeker,

In May 2008, you filed three transfer applications with the department, seeking to change some of the elements of three separate statutory claims (11-4095, 11-7585, and 11-7586). Transfers involving statutory or beneficial use claims require a considerable amount of review and can include significant procedural hurdles. In the past, the department has often "held" such transfers rather than invest the large amount of staff time needed to conduct the detailed review. Because your transfers involve disputed statutory claims, they have not been processed. This letter is meant to notify you that our office has recently begun an effort to address some of these "held" transfers involving statutory claims, including your three transfers.

Over the years, the department has developed a set of guidelines to assist its staff in processing transfer applications. These guidelines were created to provide a uniform system for reviewing transfers and ensure that the legal requirements governing transfers are being met. The current set of guidelines ("Transfer Processing Memo No. 24") states the following:

Applications for transfer proposing to change a water right based on a statutory or beneficial use claim must be reviewed to determine the validity, priority date, and extent of beneficial use established under the claimed right. Review must include field verification or other means to verify the right. . . . In addition, the applicant must be asked to provide information confirming the priority date of the claim.

The basis for this language is that the department, by statute, must verify that a water right is valid before approving a transfer of that water right. Statutory claims are generally created by the claimant and have not been validated by the department or a court. Therefore, before a statutory claim can be transferred, the department must verify that the claim constitutes a valid water right. All of the elements of the statutory claim must be verified (priority date, diversion rate, period of use, place of use).

In accordance with the transfer guidelines, before processing your transfers, the department must conduct a detailed review to determine the validity of your statutory claims. The first elements to be analyzed are the priority dates claimed. Therefore, the department is requesting specific evidence of the priority dates listed on statutory claims 11-4095 (12/10/1864), 11-7585 (6/15/1892), and 11-7586 (6/9/1915). I have enclosed a pamphlet titled "Evidence of Priority" that was distributed to claimants in the Snake

River Basin Adjudication. This pamphlet was meant to assist applicants in collecting and identifying documents that sufficiently establish a priority date.

I recognize that there was some evidence of priority submitted with two of the statutory claims (11-7585 and 11-7586) when they were filed. Evidence submitted with 11-7585 included a notarized statement from Wayne D. Johnson. The written statement was notarized in December 2007. Mr. Johnson states that the "Thornock Dam" has been in existence since 1864 and was included in a decree in 1889. He admits, however, that he has only owned and operated the land since 1942. Affidavits are sufficient evidence of priority only to the extent that they are based on personal knowledge (actual observations of the affiant). Mr. Johnson's statement is only sufficient to establish a priority date of 1942 because that is the beginning of his personal knowledge. A similar affidavit was submitted with claim 11-7586. Mr. Johnson states that the Thornock Dam was built in 1915 (which is a direct contradiction of his other affidavit). He also states that he has "seen this land irrigated personally since 1942." This affidavit would also support a 1942 priority date, but nothing earlier.

Please review the pamphlet and try to find physical or documentary evidence establishing a priority date for the water use described in the statutory claims. If the Thornock Dam has been an important irrigation feature in the community, there may be reference to its existence in old journals or town archives. The claimant ultimately bears the burden of proving the elements of his claim, including priority date. You may have difficulty finding evidence to support the priority dates listed in your statutory claims. Given this distinct possibility, it appears that you have three options with regard to your transfer applications:

Option 1: Locate and provide specific evidence supporting the priority dates listed in your statutory claims. Once sufficient evidence of priority is received, the department will finish the review of the statutory claims. This will likely include a field exam to verify the location of the existing points of diversion (listed in the claims), the number of acres irrigated, and the capacity of the delivery system. After the statutory claims have been validated, the transfer applications will be advertised to the public. If a transfer application is protested, the department will begin an administrative hearing process. If the transfer applications are not protested, they will be approved with conditions or will be denied.

Option 2: Locate and provide evidence of a later priority date. As stated above, the evidence already in the file would likely support a priority date of 1942. You may not be able to find reliable evidence tracing back to the early priority dates claimed. However, you may find evidence supporting a priority date earlier than 1942. Once sufficient evidence of any priority is received, the department will complete the field examination of the statutory claims and will finalize the transfer process as described above. This alternative may be less preferable, however, because the priority date of your statutory claim must be changed to agree with the evidence provided before the transfers can be considered. Any changes to the priority dates made by the department constitute a final administrative determination of the priority date.

Option 3: If you are unable to find any proof of priority dates or do not want to invest the time to track down evidence or do not want to have a late priority date affixed to your statutory claim, you can always withdraw the transfers. This can be done by sending the department a letter officially withdrawing the transfers. Although you will not be able to adjust your water delivery systems as contemplated in the transfers, you will at least preserve the priority date associated with your statutory claims for the time

Letter re: Applications for Transfer 74806, 74807, and 74808
August 12, 2010
Page 3 of 3

being. You should be aware, however, that if an adjudication is ever held in the Bear River drainage, claimants will be expected to provide proof of priority date. Because you will likely have to validate the priority dates associated with your claims at some point in the future, it may be worthwhile to locate whatever evidence may exist today and add it to your statutory claim files.

To summarize, your transfer applications have been held by the department because they involve statutory claims and will require a detailed review before they can be approved. The department is beginning the process of reviewing some of these held transfers. The first part of the review of your transfers is establishing the validity of the priority dates listed in your statutory claims. You are officially being asked to provide sufficient evidence supporting your claimed priority dates. If you are unable to establish valid priority dates, the department is ultimately unable to approve the transfers and they will be voided. I am establishing a 60-day time period to collect and submit evidence supporting the claimed priority dates. If you are unable to provide evidence of priority on or before October 15, 2010, your applications for transfer (No. 74806, 74807, and 74808) will be voided due to a lack of evidence supporting the underlying statutory claims.

Thank you for your patience and cooperation in this matter. Feel free to contact me with any questions you may have.

Sincerely,

James Cefalo
Water Resources Program Manager
IDWR – Eastern Region

Cc: Rocky Mountain Environmental

Encl: Evidence of Priority pamphlet (April 1991)

1.13 RECEIVED

OCT 18 2010

Department of Water Resources
Eastern Region

Book 1

Nelson
Return Don

"Item A"

to irrigate that portion of land embraced in the west half of North East-quarter, and South East-quarter of North East-quarter and North East-quarter of South East-quarter of Section Thirty-two (32) in Township Twelve (12) South, Range Forty-three (43) East, Boise Meridian, T. & S. Survey, and said James Poulson intends to divert the waters of the said Lagers Creek - as follows to wit: by a ditch two feet wide at the bottom, Three (3) feet wide at the top, and Three (3) feet deep, with a fall of Three (3) inches to the rod.

James Poulson

Territory of Idaho } ss
County of Bear Lake }

I hereby certify that a notice of which the within is a true and correct copy was posted up at the point where the James Poulson ditch takes all the waters of Lagers Creek at or near the mouth of what is known as Lagers Shallow, it being the point where the said James Poulson takes out the waters of said Lagers Creek and conducts the same into his ditch. The said notice being posted on the 21st day of March A.D. 1883

Thomas Watkins Witness

Recorded at the request of James Poulson March 25th 1883 J. H. Tucker Co. Recorder

@V-Office

Is hereby given that the undersigned Trustees of said Agricultural and Irrigating Company a body corporate existing under the laws of Idaho Territory do hereby claim and appropriate one half of all the waters of of what is known as North Creek near Liberty, Bear Lake County, Idaho Territory, and one half of all the streams and springs flowing into said creek along and above the ditch of said Agricultural and Irrigating Company, hereinafter mentioned, to be taken out on or near Section Twenty-nine (29), Township Twelve (12) South, Range Forty-three (43) East of Boise Meridian, T. & S. Survey, and at the point where the ditch of the said Agricultural and Irrigating Company intersects said North Creek

Appears to be
Twelve - See
"Item A above"

Typed P.002
NOTICE
Follows

County Recording Pages

STARTING AT BOTTOM OF FAX PAGE "P.002"

Notice

Is hereby given that the undersigned Trustees of Ovid Agricultural and Irrigating Company a body corporate existing under the laws of Idaho Territory do hereby claim and appropriate one half of all the waters of what is known as North Creek near Liberty, Bear Lake county Idaho Territory, and one half of all the streams and springs flowing into said Creek along and above the ditch of said Ovid Agricultural and Irrigating Company, ... hereinafter ..., to be taken out on or near Section Twenty-nine (29), Township (...*) (17) South, Range forty-three (43) East of Boise Meridian, U.S. Survey, and at the point where the ditch of the said Ovid Agricultural and Irrigating Company intersects said North Creek

* Appears to be written as "Twelve" not Seventeen – On original page see "Item A"

... - Indicates unsure what is written.

Sec 29, North Cr.
are 5 miles away
from POD/POU in
question. Not relevant
to this case.

County Recording Pages

FAX PAGE "P.003"

... - Indicates unsure what is written.
... *1 - Appears to be "EAST"

it being the point where this notice is posted. The said Ovid Agricultural and Irrigating Co. ... forever claims and do hereby appropriates one Half of all the waters of said North Creek and one half of all the springs and drains flowing into said Creek along and above the ditch of this ...
... as as much thereof ... will flow through a ditch six (6) feet wide at the bottom, eight (8) feet wide at the top and two (2) feet deep, with a fall of one (1) inch to the rod.

The purpose of which said ... is claimed and appropriated is for irrigating the following described tract, to wit: the (... "1) Half of Section Two (2), Section Eleven (11), Section Fourteen (14) and East Half of Section Fifteen (15) in Township (13) Thirteen South, Range Forth-Three (43) East of Boise Meridian U.S. Survey. And said Ovid Agricultural and Irrigating Company intends to divert said half of the waters of said North Creek by a ditch Six (6) feet wide at the bottom, Eight (8) feet wide at the top and Two (2) feet deep, with a fall of one (1) inch to the rod.

Only overlaps with
80 acres of
11-4095
5 1/2 SE 1/2 Sec 11

John Johnson
(M... Jenson)
(S. E. Addison) } ... of Ovid Agri-
cultural and Irrigating
Company

Territory of Idaho }
County of Bear Lake } SS

I hereby certify that a notice of which the witness is a true and correct copy was posted ... at a point where the Ovid Agricultural and Irrigating Company's ditch takes the waters of North Creek on or near Section Twenty-Four (24), Township Twelve (12) South, Range forty-three (43) east of Boise Meridian, U.S. Survey, it being the point where the said Ovid Agricultural and Irrigating Company takes out the waters of said North Creek and conducts the same into their ditch. The said notice being posted the 30th day of March A.D. 1883

L.P. Jenson

Recorded at the request of ... Jenson March 29th A.D. 1883

J. W. Stucki

Co. Recorder

twenty-nine (29)

212

RECEIVED

OCT 18 2010

Department of Water Resources
Eastern Region

Notice of Incorporation of the Preston & Montpelier
Irrigating Company Received & filed this 28th day of April 1884
Edward L. Crocker, Secretary Idaho

Filed for record at the request of G. Osborn, Jan. 9th 1889 at 71 A.M.

J. L. Montgomery
County Recorder

Notice

Do hereby give, that the undersigned Oscar Quansall, Andrew
H. Peterson John Peterson and Nick O. Nielsen of (Ovid)
Bear Lake County, Idaho, and appropriate so much of the
waters of Ovid Creek as will flow through two ditches of the
following dimensions to wit: the first ditch to be 6 feet
wide at the top; 4 feet wide at the bottom and 4 feet deep,
the point of intended diversion being about 40 rods above
the bridge known as "John Peterson's Bridge" (said bridge being
situated about one-half mile North-east of Ovid.)

The dimensions of the second ditch are as follows: 5 feet
wide at top, 4 feet wide at bottom and 2 feet deep, the point of
diversion being about one-half mile below that of the ditch
first described

The ^{measurement} amount of water hereby appropriated is 2000
^{measured} inches measured under a four inch pressure.

Said water is ^{claimed} under Chapter 1 Title 9 of
the Revised Statutes of Idaho, 1887 for the irrigation of the
following described tracts of land, to wit: the North half
of section 13, and the S. E. ⁴ S. W. ⁴ - S. ² S. E. ⁴ and Lot 4
Section 12, all in Township 13 South, Range 43 East, B.
M., in Bear Lake County, Idaho Territory.

Dated at Paris Idaho, January 23rd 1889, - Oscar Quansall

January 23, 1889

Nick O. Nielsen
Andrew H. Peterson

Misc.
Book 1

Ditch

① 6 feet @ Top
4 ft wide bottom
4 ft deep.

Ditch ②

T13S R43E
N 1/2 Sec 13
SESW 1/4
S 1/2 SE 1/4
Lot 4

I hereby certify that I posted a copy of the foregoing notice at each of the points of diversion above described on the 23rd day of January, 1889.

Witness

Andrew H. Petersen

Thomas Lueders

Knud Pagh

Thomas Petersen

Filed for record at the request of Oscar Quance Jan. 26th 1889 at 4 P. M.

J. L. Montoya

C. Recorder

Articles of Incorporation of the Bloomington Co-operative
Mercantile Institution

Article First

The name of this Corporation shall be the Bloomington
Co-Operative Mercantile Institution.

Second

The object of this Corporation is for general mercan-
tile purposes.

Third

The principal ^{place of} business of said Corporation shall be the
Town of Bloomington County of Bear Lake, Territory of
Idaho.

Fourth

This Corporation shall continue for the period of
Twenty five years from the day of its incorporation.

Fifth

There shall be seven Trustees of this Corporation. The
names and residences of said Trustees for the first year, or until
the first general election shall be as follows, namely:

James H. West Bloomington Idaho

George Diamond "

William Kulme "

A. J. Allard "

RECEIVED

00 18 2010

Department of Water Resources
Eastern Region

IN CONSIDERATION of the foregoing, the individuals aforesaid hereby covenant and agree with said Company, its successors and assigns, as follows:

1. To acknowledge and hereby do acknowledge the receipt from said Company of said Four Hundred Dollars, by the hands of its Agent, Frederick Steigmeyer, by his check No. 5, dated May fourth, 1915.

2. To use and enjoy said lands, last above mentioned as to be used and enjoyed by them, for haying and pasturage purposes, subject only to the uses thereof in the future (if found necessary by it) of said Company, or of its successors or assigns (if found necessary by them or any one of them) for its or their purposes as hereinbefore in its second covenant limited; and in so using and enjoying said lands they will maintain their "Rich's Dam" and other necessary improvements.

3. To make no claim or demand, now or in the future, against said Company, its predecessors, successors or assigns, for or on account of the use (past, present and future) by it or them, of roads, gates, lanes and private ways (extending into or across lands owned by them or any one or more of them) unless (as to future use) said Company, its successors or assigns, shall be careless and negligent in leaving open such gates; and do hereby receipt and release said Company, its predecessors-in-interest, successors or assigns for, on account of and from all claims and demands (past, present and future) they or any one or more of them may now or hereafter have, arising directly out of or in any manner having to do with the construction, operation and/or maintenance in said County of works or improvements by said Company, its predecessors, successors or assigns, for its purposes as in its second covenant herein limited.

IT IS MUTUALLY UNDERSTOOD AND AGREED by and between the parties hereto that all the covenants and agreements of said individuals herein contained shall be and remain binding on the heirs and all assigns of said individuals and/or of any one or more of them; further, that none of the covenants herein set forth and by said Company to be kept or performed shall become binding upon it unless nor until this Agreement shall have been executed by its Vice-President and General Manager.

WITNESS the hands of said individuals hereto set at Paris, Idaho, and the corporate name of said Company hereto subscribed by its above-named Agent, on this fourth day of May, A. D. 1915.

EXECUTED IN DUPLICATE.

As to said individuals, signed in the presence of Stanley Howell, W. E. Ballentyne.

Wm. L. Rich,
Mark Sutton
Jacob Hess
A. J. Bateman.

(50¢ cancelled Revenue stamp.)

As to said Company, signed in the presence of: A. E. Burdette.)

APPROVED:

C. E. Groesbeck,
Its Vice-President & General Manager.

O.K. RAM.

STATE OF IDAHO

County of Bear Lake

On this 17th day of May in the year of nineteen hundred fifteen, before me, J. Russell Shepherd, a duly appointed, qualified, commissioned and acting Notary Public in and for said County in the State aforesaid, personally appeared William L. Rich, Mark Sutton, Jacob Hess and A. J. Bateman, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

My commission expires Mar. 24th, 1915.

IN WITNESS WHEREOF, I hereto set my hand and hereto affix my Notarial Seal on the day and year in this Certificate first above written.

J. Russell Shepherd,

Notary Public

(SEAL)

Recorded at request of Utah Power & Light Company, July 1st, 1915, at 80 min. past 11 o'clock A. M.

E. E. Broomhead,

Auditor & Recorder

No. 12150.

A G R E E M E N T.

Hereby we acknowledge receipt from Utah Power & Light Company, a corporation of Maine, by the hands of Frederick Steigmeyer, its Agent, of the sum of Two hundred fifty Dollars, in full consideration and payment (a) for rights-of-way for dykes by it recently constructed on and over Lots Three and Four of Section Eighteen and Lot One of Section Nineteen all in Township Thirteen South Range Forty-four (44) East B. B. & M., in Bear Lake County, Idaho; (b) for maintaining in the future said dykes, which we hereby covenant to do; (c) for the easement and right unto said corporation, its successors and assigns, hereto by us granted, to divert, release and impound upon from and over said Lots waters now and/or in the future upon or flowing thereto, to the full quantities and extent resulting from the maintaining said dykes, and also other dykes and a dam or dams and a gate situate on lands owned by others than us, including said corporation; (d) for all demands, claims and accounts against said corporation and having in any manner to do with, or directly or indirectly connected with, said Lots, or any part thereof, or any crops which grew or fail to grow, or which might have grown, or which may grow or fail to grow thereon; (e) for settlement of all contentions, differences and issues, past, present and future, between us and either of us on the one hand and said corporation, its predecessors-in-interest, its successors or assigns, on the other hand, arising or to arise, directly or indirectly out of the construction, operation and/or maintenance, in Bear Lake County, Idaho of the works of the construction of said corporation, or out of the use of said works for the purpose for which same were designed and/or are now being used.

To our foregoing covenants and receipt, for the consideration above mentioned, we hereby bind our heirs and all our grantees (other than said corporation) of said Lots or any part thereof, and do hereby agree that such covenants and receipt shall extend and in to the benefit of the successors and assigns of said corporation.

Witness our hands at Bloomington, Idaho, this Eighth day of June A. D. 1915.

George T. Thornock.

Mary E. Thornock.

(Cancelled Revenue 50¢ stamp.)

State of Idaho)
) ss
 Bear Lake County.

On this Eighth day of June in the year of our Lord one thousand nine hundred fifteen before me, Edwin L. McClave, a Notary Public in and for said County in the State aforesaid, personally appeared George T. Thornock and Mary E. Thornock, his wife, personally known to me to be the persons whose names are subscribed to the within instrument and duly acknowledged to me that they executed the same.

My Commission expires Mar. 8th, 1916.

IN WITNESS WHEREOF, I have hereunto set my hand and hereto affixed my Notarial Seal the day and year in this certificate first above written.

Edwin L. McClave.

Notary Public.

6127.

(Seal)

Recorded at request of Utah Power & Light Co. July 2nd, 1915. at 45 min. past 11 o'clock A.M.

H. H. Broomhead.

Auditor & Recorder.

No. 12151.

A G R E E M E N T.

Hereby we acknowledge receipt from Utah Power & Light Company, a corporation of Maine, by the hands of Frederick Steigmeyer, its Agent, of the sum of Five Hundred Dollars in full consideration and payment (a) for rights-of-way for dykes by it recently constructed on and over Lots One, Two and Three of Section Thirty, Township Thirteen South Range Forty Four East B. B. & M., Bear Lake County, Idaho; (b) for maintaining in the future said dykes, which we hereby covenant to do; (c) for the easement and right unto said corporation, its successors and assigns, hereby by us granted, to divert, release and impound upon, from and over said lots waters now and/or in the future upon or flowing thereto, to the full quantities and extent resulting from the maintaining said dykes, and also other dykes and a dam or dams and a gate situate on lands owned by others than us, including said corporation; (d) for all demands, claims and accounts against said corporation and having in any manner to do with, or directly or indirectly connected with, said Lots, or any part thereof, or any crops which grew or failed to grow, or which might have grown, or which may grow or fail to grow thereon; (e) for settlement of all contentions, differences and issues, past, present and future, between us and either of us on the one hand and said corporation, its predecessors-in-interest, its successors or assigns on the other hand, arising or to arise, directly or indirectly, out of the construction, operation and/or maintenance, in Bear Lake County, Idaho, of the works and improvements of said corporation, or out of the use of said works for the purposes for which same were designed and/or are now being used.

To our foregoing covenants and receipt, for the consideration above mentioned, we hereby bind our heirs and all our grantees (other than said corporation) of said Lots or any part thereof, and do hereby agree that such covenants and receipt shall extend and inure to the benefit of the successors and assigns of said corporation.

Witness our hands at Lenark, Idaho, this Seventh day of June A. D. 1915.

(cancelled 50¢ Revenue stamp).

Charles A. Wallantine.
 Elizabeth Wallantine.

State of Idaho)
) ss
 Bear Lake County.

On this seventh day of June in the year of our Lord one thousand nine hundred and fifteen before me, Edwin L. McClave, a Notary Public in and for said County in the State aforesaid, personally appeared Charles A. Wallantine and Elizabeth Wallantine, his wife, personally known to me to be the persons whose names are subscribed to the within instrument, and duly acknowledged to me that they executed the same.

My commission expires Mar. 8, 1916.

(Seal)

IN WITNESS WHEREOF, I have hereunto set my hand and hereto affixed my Notarial Seal the day and year in this Certificate first above written.

Edwin L. McClave.

Notary Public.

6128.

(Seal)

Recorded at request of Utah Power & Light Company, July 2nd, 1915, at 50 min. past 11 o'clock A. M.

H. H. Broomhead.

Auditor & Recorder.

No. 12160.

C E R T I F I C A T E O F R E D E M P T I O N.

State of Idaho)
) ss
 County of Bear Lake)

I, M. B. Cherry, Treasurer of the Montpelier Irrigation District of Montpelier, Idaho, county of Bear Lake, do hereby certify that all assessments for the year 1909 on the following described lands, belonging to _____ have been fully paid, and I hereby release all claim of said District to said land by virtue of said assessments and sale thereof. Viz:

Lots 1-2-3-4-5-6 & 7 Block 1 Huff's Addition to City of Montpelier.
 Lots 3 & 4 Block 2 Brennan & Davis' Addition to City of Montpelier.
 Lot 1 Block 4 Bagley's Extension to City of Montpelier. All in Bear

Lake County, Idaho.

Witness my hand as said Treasurer at Montpelier, Idaho, this 7 day of July, 1915.

(Signed)

M. B. Cherry.

Treasurer Montpelier Irrigation District.

Recorded at request of E. L. McClave, July 7th, 1915, at 5 min. past 1 o'clock P. M.

H. H. Broomhead. Auditor & Recorder.

the text and wording of such Agreement, and also for the further description of the location of the dam, spill-way canal and dykes; further, that this contract shall not be binding upon said Company until approved by its Vice-President & General Manager.

IN WITNESS WHEREOF, said Sorensen has hereunto set his hand and said Company has hereunto caused its corporate name to be subscribed by its Agent on this Twenty-eighth day of October, A. D. 1916.

Christian Sorensen.

Utah Power & Light Company.

By Frederick Steigmeyer,
Its Agent.

Approved this Fourth day of
November, 1916.

C. E. Grousebeck,
President & General
Manager, Utah Power & Light
Company.

(Approved as to form and execution: J.M.)

State of Idaho)

County of Bear Lake) ss

On this twenty-eighth day of October in the year One Thousand Nine Hundred and sixteen, before me, Edwin L. McClave, a Notary Public in and for said County, personally appeared Christian Sorensen, a widower, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

My commission expires March 8th, 1920.

WITNESS my hand hereunto subscribed and my Notarial Seal hereto affixed on the day of year in this Certificate first above written.

Edwin L. McClave.

Notary Public, residing at Montpelier, Idaho.

(Notary Seal)

Recorded at request of Utah Power & Light Co., November 10th, 1916, at 55 min. past 11 o'clock A. M.

H. H. Broomhead.

County Recorder.

18697.

CANAL RIGHT-OF-WAY AGREEMENT.

1916.

Montpelier, Idaho, October 28th, /

For value received, we hereby grant unto Frederick Steigmeyer, his heirs and assigns, the right to construct, operate and perpetually maintain over, through and across the lands owned by us in the south half of the north-west quarter of Section 6 in Township 3 South, Range 44 East B. B. & M., in Bear Lake County, Idaho, a water ditch with carrying capacity not exceeding thirty second feet, and in so doing to borrow material necessary in the immediate vicinity of the line of said ditch, which is now staked on the ground across said lands.

Witnesses to signing:)

(Approved as to form)
(and execution: J.M.)

Andrew P. Peterson.
Mary A. Peterson.

Edwin L. McClave.
Frederick Steigmeyer.

State of Idaho)

County of Bear Lake) ss

On this twenty-eighth day of October in the year One Thousand Nine Hundred Sixteen before me, Edwin L. McClave, a Notary Public in and for said County, personally appeared Andrew P. Peterson and Mary A. Peterson, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

My commission expires March 8th, 1920.

WITNESS my name hereunto subscribed and my Notarial Seal hereto affixed on the day of year in this certificate first above written.

Edwin L. McClave.

Notary Public, residing at Montpelier, Idaho.

(Notary Public)

Recorded at request of Utah Power & Light Company, November 10th, 1916, at 12 o'clock M.

H. H. Broomhead.

County Recorder.

13707.

WARRANTY DEED.

THIS INDENTURE, Made this 29th day of December in the year of our Lord one thousand and hundred and fifteen between F. Marion Perkins and Margaret A. Perkins (his wife) of Montpelier, County of Bear Lake, State of Idaho, the parties of the first part, and Royal D. Clark of Montpelier, County of Bear Lake, State of Idaho, the party of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Fifteen Hundred Dollars, lawful money of the United States of America, to them in full paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in Montpelier, County of Bear Lake and State of Idaho, to-wit:

Lot Five (5) in Block twelve (12) as platted in Plat "A" of the Montpelier Townsite Survey.

Also, commencing at the Northeast corner of said Lot five (5) and running thence North thirty eight and one-half (38½) feet; thence South One hundred sixty-five (165) feet; thence West thirty eight and one-half (38½) feet; thence North One hundred sixty five (165) feet to place of beginning.

Also, commencing at the Northwest corner of said Lot five (5) and running thence North sixteen and one-half (16½) feet; thence East three hundred sixty eight and one-half (368½) feet; thence South sixteen and one-half (16½) feet; thence West three hundred sixty eight and one-half (368½) feet to place of beginning, the last above described tract having been acquired by the narrowing of the street.

his wife, Wm. W. Thornock and Grace E. Thornock, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and hereto affix my Notarial Seal on the day and year in this Certificate first above written.

My Commission expires
March 24th, 1919.

(Seal)

J. Russell Shepherd.
Notary Public.

Recorded at request of Utah Power & Light Company, June 8th, 1915, at 20 min. past 1 o'clock P. M.

H. B. Broomhead.
Auditor and Recorder.

No. 12071.

A G R E E M E N T.

WHEREAS, this day W. W. Thornock and Grace E. Thornock, his wife, and William L. Rich and Emily M. Rich, his wife, entered into an Agreement with Utah Power & Light Company a corporation, regarding a dyke (the objects to be attained by the construction of which dyke are in said Agreement set-forth) to extend easterly and westerly, along or in the immediate vicinity of the southerly boundary of Lot One and the westerly or southerly boundary of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 18 T. 14 S. R. 44 E. B.M.. Bear Lake County, Idaho, and,

WHEREAS, such dyke should be constructed before the freezing weather of the autumn or winter of this year, and

WHEREAS, said W. W. Thornock is prepared to construct such dyke and said Company is prepared to pay for such construction.

NOW, THEREFORE, said W. W. Thornock for and in consideration of One Hundred Dollars to him in hand paid by said Company, by the hands of Frederick Steigmeyer, its Agent, receipt whereof is hereby acknowledged, does hereby covenant and agree with said Company that he will, prior to the first freezing weather in the autumn or winter of this year, construct said dyke at the location in the first preamble hereto described and so as to attain the objects set-forth in the Agreement in such preamble mentioned.

WITNESS my hand hereunto set at Bloomington, Idaho, this third day of May, 1915.

Witnesses to signing by W. W. Thornock)
Fred Steigmeyer.

W. W. Thornock.

Accepted:
Utah Power & Light Company,
By Frederick Steigmeyer,
Its Agent.

State of Idaho)
County of Bear Lake) ss

On this 6th day of May in the year of nineteen hundred fifteen, before me, J. Russell Shepherd, a duly appointed, qualified, commissioned and acting Notary Public in and for said County in the state aforesaid, personally appeared W. W. Thornock, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and hereto affix my Notarial Seal on the day and year in this Certificate first above written.

My commission expires March 24th, 1919. (Seal).

J. Russell Shepherd.
Notary Public.

Recorded at request of Utah Power & Light Company, June 8th, 1915, at 25 min. past 1 o'clock P. M.

H. E. Broomhead.
Auditor & Recorder.

No. 12078.

A G R E E M E N T.

WHEREAS, heretofore the Utah Power & Light Company, a corporation of Maine, and its predecessors-in-interest, purchased of Christian Sorensen and Matine (sometimes pronounced and spelled "Tena") Sorensen, his wife, of Ovid, Bear Lake County, Idaho, approximately twenty-nine acres situate in the easterly part of Lots One and Two, Section 18 Township 13 South, Range 44 East Boise Base & Meridian and Lot 4 of Section 7 in said Township and Range, and in said County; and

WHEREAS, said Sorensens, hereinafter called second parties, own and are in possession of said Lots, save and except the portions thereof heretofore purchased by the Oregon Short Line Railroad Company, a corporation, and said Utah Power & Light Company, and its predecessors-in-interest; and

WHEREAS, said Lots are traversed by sloughs and water channels, through which flows certain waters of Paris Creek, Ovid Creek, and drainage from other lands, to and into the Outlet Canal of said Utah Power & Light Company, hereinafter called the first party; and

WHEREAS, second parties desire the hereinafter mentioned improvements to be constructed on Lots One and Two aforesaid, and second party is willing and prepared to construct said improvements so that water diverted and impounded thereby may be turned and flow westerly and northerly from said improvements and lands adjacent thereto, instead of flowing as now, during the spring flood and early summer flood seasons directly into said Outlet Canal via bed of Natural Outlet;

NOW, THEREFORE, second parties for and in consideration of the constructing said improvements by first party, at its sole cost, and for the sum of Twenty Five Dollars to them now paid by first party, do hereby covenant and agree for themselves, their heirs and assigns, with first party, its successors and assigns, as follows:

1. To grant, and hereby do grant, unto first party, its successors and assigns the easement, right and privilege (s) to construct, wholly at its own costs, on and over Lots One and Two of Section 18 Township 13 South, Range 44 East Boise Base & Meridian, Bear Lake County, Idaho, dykes and a dam to be situate along the following described line: Beginning at a point on the southern boundary of Lot 2, Section 18 aforesaid,

11-7586

which bears S. 88° 14' E. 1017.2 feet from the quarter section corner on the western boundary of said Section 16; thence N. 2° 31' E. 267.5 feet; thence N. 14° 30' W. 363.5 feet; thence N. 48° 27' E. 225 feet.

Also a spillway canal and gate in the immediate vicinity of "Sorensen's Slough", near the confluence of same with the Natural Outlet in Lot Two aforesaid; and (b) by said improvements, and others situate on the lands of other land-owners, to divert, release and impound upon, from and over said Lots waters now and/or in the future upon or flowing thereto. None of said dykes or said dam is to be higher at the crest thereof than five thousand nine hundred twenty-four feet above sea level, and the dimensions thereof (other than the above-mentioned permitted extreme height) are to be as may be determined by first party; and (c) to take from said Lots earth (in the immediate vicinity of said improvements) necessary for use in the construction thereof; and (d) to enter at will upon said Lots to construct said improvements and to exercise and enjoy this easement.

2. To maintain said improvements after construction thereof, so that the waters flowing to said improvements and impounded thereby will flow westerly and northerly from said Lots One and Two, save and except after irrigation season when being released through said spill-way canal and gate.

In consideration of the foregoing, first party covenants and agrees with second parties, that it will without delay construct said improvements, to-wit: the dam, dykes, spill-way canal and gate above mentioned, and will do so wholly at its own cost.

It is mutually understood and agreed by and between the parties hereto that by the construction of said improvements and the payment of said sum of money and the execution and delivery of this instrument-in-writing, all contentions, differences and issues between the parties hereto arising or to arise out of the construction, maintenance and/or operation in Bear Lake County aforesaid, of the Outlet Canal aforesaid by first party, its successors or assigns, and/or of its other improvements in said County situate, other than the improvements first above mentioned, are compromised and forever adjusted and settled, and all accounts between the parties hereto are likewise and for same consideration hereby adjusted and settled, save and except as to such sum of money as may become due from first party to second parties as purchase price of lands, within said Lots, heretofore by first party or its predecessors-in-interest purchased of second parties.

IN WITNESS WHEREOF, first party has caused its corporate name to be hereunto subscribed by its Agent thereunto duly authorized and second parties have hereunto set their hands at Montpelier, Idaho, this seventh day of June A. D. 1915.

Utah Power & Light Company,
By Fred Steigmeyer, Its Agent.
Christian Sorensen.
Matine Sorensen.

(50¢ cancelled Revenue stamp.)

State of Idaho)
Bear Lake County) ss

On this 7th day of June in the year of our Lord one thousand nine hundred fifteen before me, Edwin L. McClave, a Notary Public in and for said County, in the State aforesaid, personally appeared Christian Sorensen and Matine Sorensen, his wife, personally known to me to be the persons whose names are subscribed to the within instrument, and duly acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and hereto affixed my Notarial Seal the day and year in this Certificate first above written.

My Commission expires Mar. 8, 1916.

(Seal)

Edwin L. McClave.
Notary Public.

Recorded at request of E. L. McClave, June 8th, 1915, at 20 min. past 11 o'clock A. M.

R. H. Broomhead.
Auditor & Recorder.

No. 12079.

A G R E E M E N T.

Hereby we acknowledge receipt from Utah Power & Light Company, a corporation of Maine, by the hands of Frederick Steigmeyer, its Agent, of the sum of Two Hundred fifty Dollars, in full consideration and payment (a) for rights-of-way for dykes by it recently constructed on and over Lots Two, Three and Four, Section Nineteen, Township Thirteen (13) South, Range Forty-four East B. B. & M., in Bear Lake County, Idaho; (b) for maintaining in the future said dykes, which we hereby covenant to do; (c) for the easement and right unto said corporation, its successors and assigns, hereby by us granted, to divert, release and impound, upon from and over said Lots waters now and/or in the future upon or flowing thereto, to the full quantities and extent resulting from the maintaining said dykes, and also other dykes and a dam or dams and a gate situate on lands owned by others than us, including said corporation; (d) for all demands, claims and accounts against said corporation and having in any manner to do with, or directly or indirectly connected with, said Lots, or any part thereof, or any crops which grew or failed to grow, or which might have grown, or which may grow or fail to grow thereon; (e) for settlement of all contentions, differences and issues, past, present and future, between us and either of us on the one hand and said corporation, its predecessors-in-interest, its successors or assigns, on the other hand, arising or to arise, directly or indirectly, out of the construction, operation and/or maintenance, in Bear Lake County, Idaho, of the works and improvements of said corporation, or out of the use of said works for the purpose for which same were designed and/or are now being used.

To our foregoing covenants and receipt, for the consideration above mentioned, we hereby bind our heirs and all our grantees (other than said corporation) of said Lots or any part thereof, and do hereby agree that such covenants and receipt shall extend and inure to the benefit of the successors and assigns of said corporation.

Witness our hands at Ovid, Idaho, this eighth day of June A. D. 1915.

James G. Olson.
Eliza Olson.

(50¢ cancelled Revenue stamp on original.)

State of Idaho)
Bear Lake County) ss

On this 8th day of June in the year of our Lord one

thousand nine hundred fifteen before me, Edwin L. McClave, a Notary Public in and for said County in the State aforesaid, personally appeared James C. Olson and Eliza Olson, his wife, personally known to me to be the persons whose names are subscribed to the within instrument and duly acknowledged to me that they executed the same.

My commission expires Mar. 8th, 1916.

IN WITNESS WHEREOF, I have hereunto set my hand and hereto affixed my Notarial Seal the day and year in this certificate first above written.

Edwin L. McClave,
Notary Public.

(Seal)

Recorded at request of E. L. McClave, June 9th, 1915, at 25 min. past 11 o'clock A. M.

E. H. Broomhead

Auditor and Recorder.

No. 12084. ✓ DEPARTMENT OF THE INTERIOR. Sec. 2291 R. S. TOP
UNITED STATES LAND OFFICE BLACKFOOT, IDAHO. Auth. "FS" 4-9-15
C E R T I F I C A T E. Serial No. 058-RE 13000.
Homestead. Receipt No. 13000--1265289.
Patent to contain provisions, reservations, conditions and limitations of the Act July 17, 1914. (38 Stat. 509).

June 7, 1915.

IT IS HEREBY CERTIFIED, that, pursuant to the provisions of Section 2291, Revised Statutes of the United States, George Bateman, Blomington, Idaho, has made payment in full for NE 1/4 section 21 Township 14 South, Range 43 East Boise Meridian, Idaho, containing 160 acres.

NOW, THEREFORE, BE IT KNOWN, that, on presentation of this Certificate to the COMMISSIONER OF THE GENERAL LAND OFFICE, the said George Bateman shall be entitled to receive a Patent for the land above described. If all then be found regular.

Joseph T. Carruth.
Register.

Note: A duplicate of this Certificate is issued to the claimant as notice of the acceptance of the proof and payment and of the allowance of the entry by the Register and Receiver.

The original is forwarded to the General Land Office, with the entry papers, for approval by the Commissioner of the General Land Office and issuance of Patent.

The duplicate copy forwarded to the claimant should be held until notice of issuance of patent is received.

In all correspondence concerning the entry in connection with which this Certificate issued, refer to the NAME OF THE LAND OFFICE and the SERIAL NUMBER noted thereon.

Approved _____ By _____ Division.

Recorded at request of George Bateman, June 9th, 1915, at 15 min. past 4 o'clock P. M.

E. H. Broomhead.
Auditor and Recorder.

No. 12088. T A X D E E D.

THIS INDENTURE, made this 8th day of June A. D. 1915, between M. B. Cherry, Treasurer of the Montpelier Irrigation District, party of the first part and Montpelier Irrigation District, party of the second part.

WITNESSETH, That whereas, under and by virtue of Section 2410 of Chapter 5, Title 14 of the Revised Statutes of Idaho, an assessment was levied for the year 1907, upon the following described land in the name of Joseph Jones and the taxes not having been paid on said land, it was advertised, with other land, in the delinquent list in the Montpelier Examiner, a newspaper published in said District, for a period of four weeks, the first publication being on the 7th day of August A. D. 1908, and the last publication being on the 21st day of August A. D. 1909, and on the 7th day of September following, the said M. B. Cherry, Treasurer of the Montpelier Irrigation District, offered said land for sale, as provided by law, to satisfy the claim of said district for such assessment and tax, which amounted to \$51.14, including penalties and costs, and the Montpelier Irrigation District being the bidder who was willing to take the least quantity or the smallest portion of the interest in said land, or lot, and pay the taxes, costs and charges due thereon, the following described tract was sold and struck off to the said Montpelier Irrigation District for the sum of \$51.14.

AND WHEREAS, No person has redeemed the property so sold during the time allowed by law for its redemption, now therefore,

THIS INDENTURE WITNESSETH, that M. B. Cherry, Treasurer of the Montpelier Irrigation District, by virtue and in pursuance of the Statute in such case made and provided, and for and in consideration of the sum of fifty one and 14/100 Dollars lawful money of the United States of America in hand paid, has granted, bargained, sold, conveyed and confirmed and by these presents does grant, bargain, sell, convey and confirm unto the aforesaid Montpelier Irrigation District, its successors and assigns, forever, all of the following described piece or parcel of land, to-wit:

Lot two (2) being the North half of the south west quarter of Section Five (5) in Township thirteen (13) South of Range forty four (44) East of Boise Meridian containing 80 acres.

Also part of Lot five (5), being that part of said Lot lying East of Bear River and being in the east half of the south east quarter of Section Six (6) in Township Thirteen (13) South of Range forty four (44) East of Boise Meridian, containing seventy and two-hundredths (70.02) acres, more or less.

Also Lots five (5) and Six (6) in Block Sixteen (16) of the original Townsite of Montpelier, Idaho, as shown on Plat "A" of said Townsite and recorded in Plat Book "B" of the records of Bear Lake County, Idaho.

as fully and absolutely as he, the said Treasurer of the Montpelier Irrigation District can lawfully sell and convey the same, together with the appurtenances thereunto belonging and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, possession and claim, as well in law as in equity of the said Joseph Jones and all owners or claimants

OCT 18 2010

Department of Water Resources
Eastern Region

BR-7-Pg 167

Sec B

The United States of America.
Certificate (No. 952.) To all to whom these presents shall
come, Greeting.

Whereas Anders P. Nielsen, of Bear Lake County, Idaho, has deposited in the General Land Office of the United States a certificate of the Register of the Land Office at Blackfoot, Idaho, whereby it appears that full payment has been made by the said Anders P. Nielsen according to the provisions of the Act of Congress of the 21st of April 1820, entitled "An Act making further provision for the sale of the Public Lands"; and the acts supplemental thereto for the North half of the South West quarter and the North half of the South East quarter of section thirty one in Township Thirteen South of Range forty three East of Boise Meridian in Idaho, containing one hundred and sixty acres, according to the Official Map of the Survey of the said lands, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Anders P. Nielsen.

Now Know all, That the United States of America, in consideration of the premises and in conformity with the several acts of Congress in such case made and provided have given and granted, and by these presents do give and grant unto the said Anders P. Nielsen and to his heirs, the said tract above described, to have and to hold

of whatever nature, thereunto
 with the said Anders Nielsen and to his heirs
 and assigns forever; subject to any vested and accrued water
 rights for mining, agricultural, manufacturing, or other
 purposes, and rights to ditches and reservoirs used in connection
 with such water rights, as may be recognized and acknow-
 ledged by the local customs, laws, and decisions of courts,
 and also subject to the right of the proprietor of a vein or
 lode to extract, and no one but one therefrom, should
 the same be found to penetrate or intersect the premises
 hereby granted, as provided by law; and there is reserved
 from the lands hereby granted, a right of way thereon
 for ditches or canals constructed by the authority of the U.
 S. States.

In Testimony whereof I, Benjamin Harrison, President
 of the United States of America, have caused these letters to be
 made Patent, and the Seal of the General Land Office to be here-
 unto affixed.

Given under my hand at the City of Washington
 the thirtieth day of June, in the year of our Lord one thousand
 eight hundred and ninety two, and of the Independence
 of the United States, the one hundred and eighteenth

By the President. Benjamin Harrison

By M^{rs} Kear, Secretary
 P. P. Roberts

Seal

Recorder of the General Land Office.

Recorded, Vol 3 A Page 273.

Filed for record at request of A. P. Nelson Oct 26th 1892 at 10:00 am

L. J. O'Connell

11-7585

File #20050794
Tax I.D.#4090.01 & 4093.

WARRANTY DEED

For Value Received,

CLYDE H. COOK and CAROLYN COOK, husband and wife,
of 530 SOUTH 1ST WEST, BERN, County of BEAR LAKE, State of ID. 83220,

THE GRANTOR(S),

do(es) hereby, grant, bargain, sell, and convey unto

FRED W. HUNZEKER & SONS PARTNERSHIP,
of 1041 BENCH ROAD, MONTPELIER, County of Bear Lake, State of ID. 83254,

THE GRANTEE(S),

For the sum of ten dollars and other good and valuable consideration, the following described tract of land in the County of Bear Lake, State of Idaho:

TOWNSHIP 13 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN:

Sections 7, 18 and 19: Beginning at a point 600 feet West and South 1980 feet from the Northeast corner of Lot 2 of said Section 19, and running thence North 5940 feet; thence North 4°46' East 3000 feet, more or less, to the North line of the Oregon Short Line Railroad right of way; thence South 76°15' West along said right of way 1254 feet, more or less, to the West line of said Section 7; thence South 8620 feet, more or less, to a point 1100 feet, more or less, West of the point of beginning; thence East 1100 feet, more or less, to the Point of Beginning.

EXCEPT THEREFROM that portion thereof lying within the following described tract, to-wit:

Beginning at a point which is 98.4 feet West of the Northeast Corner of Lot 3 of said Section 18, and running thence West 530 feet; thence North 4°46' East 2849 feet to the North line of Lot 1 of said Section 18; thence East 390 feet along the said North line of Lot 1; thence South 1600 feet; thence South 4°46' West 1050 feet to the Point of Beginning.

To have and to hold the said premises, with their appurtenances unto the said Grantee(s), its heirs and assigns forever. And the said Grantor(s) hereby covenant to and with the said Grantee(s) that they are the owner(s) in fee simple of said premises; that they are free from all encumbrances, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED THIS November 14, 2005.

CLYDE H. COOK

CAROLYN COOK

STATE OF IDAHO, COUNTY OF BEAR LAKE

On this 14 day of November, 2005, before me a Notary Public in and for the State, personally appeared

CLYDE H. COOK and CAROLYN COOK,
husband and wife

known to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and seal the day and year in the certificate first above written.

Notary Public
Residing at: OVID, IDAHO
My Commission Expires: 7-7-2010

Instrument # 193096

BEAR LAKE COUNTY
2005-11-15 16:22:44 No. of Pages: 1

Recorded for: FIRST IDAHO TITLE CO.

KERRY HADDON Fee: 3.00

Ex-Officio Recorder-Deputy

Under the WARRANTY DEED



SCHEDULE B - SECTION 1

The following are the requirements to be complied with:

1. Instrument creating the estate or interest to be insured must be executed and filed for record, to-wit:

Warranty Deed from CLYDE H. COOK and CAROLYN COOK, as Joint Tenants with Full Rights of Survivorship (Not as Tenants in Common), to FRED W. HUNZEKER & SONS PARTNERSHIP, conveying the premises described in Schedule A hereof, in fee simple, free and unencumbered.

Real Estate Mortgage from FRED W. HUNZEKER & SONS PARTNERSHIP to CLYDE H. COOK and CAROLYN COOK, as Joint Tenants with Full Rights of Survivorship (Not as Tenants in Common), conveying the premises described in Schedule A hereof to secure the payment of a

2. Pay the full consideration to, or for, the account of, the Grantors or Mortgagors.
3. Pay all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
4. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, sub-contractors, labor and materialmen are all paid; and have released of record all liens or notice of intent to perfect a lien for labor or material.

COMMONWEALTH LAND TITLE INSURANCE COMPANY

SCHEDULE B - SECTION 2

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
 2. Easements, liens, encumbrances, or claims thereof, which are not shown by the public records.
 3. Discrepancies, conflicts in boundary line, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
 4. Any lien, or right to a lien, imposed by law for service, labor, or material heretofore or hereafter furnished, which lien, or right to a lien, is not shown by the public records.
 5. (a) Unpatented mining claim; (b) reservations or exceptions in patents or in acts authorizing the issuance thereof; (c) Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes; or, (d) water rights, claims or title to water, whether or not the matters excepted under (a), (b), (c), or (d) are shown by the public records.
 6. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the public records of such agency or by the public records.
 7. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity, or garbage collection or disposal or other utilities unless shown as an existing lien by the public records.
 8. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
9. General taxes for the year 2005 in the amount of \$136.76 are due and payable on or before 20 December 2005.
NOTE: Bear Lake County Tax Parcel 4090.01 & 4093.
10. Subject to easements for roads, ditches, power and transmission lines, as the same now exist.
11. Agreement for Canal Construction and Maintenance and Diversion Privileges dated 07 June 1915 and recorded 09 June 1915 in Book Deeds of 21, page 388, as Instrument No. 12078, records of Bear Lake County, Idaho.
Grantor: CHRISTIAN SORENSEN and MATINE SORENSEN, h/w
Grantee: UTAH POWER & LIGHT COMPANY
12. Agreement for the easement and right unto said corporation, its successors and assigns, hereby by us granted, to divert, release and impound, upon from and over said Lots waters now and/or in the future upon or flowing thereto to the full quantities and extent resulting from the maintaining said dykes, and also other dykes and a dam or dams and a gate situate on lands owned by others than us, including said corporation; dated 08 June 1915 and recorded 09 June 1915 in Book 21 of Deeds, page 388, as Instrument No. 12079, records of Bear Lake County, Idaho.
Grantor: JAMES C. OLSON and ELIZA OLSON, h/w
Grantee: UTAH POWER & LIGHT COMPANY

(Continued)

COMMONWEALTH LAND TITLE INSURANCE COMPANY

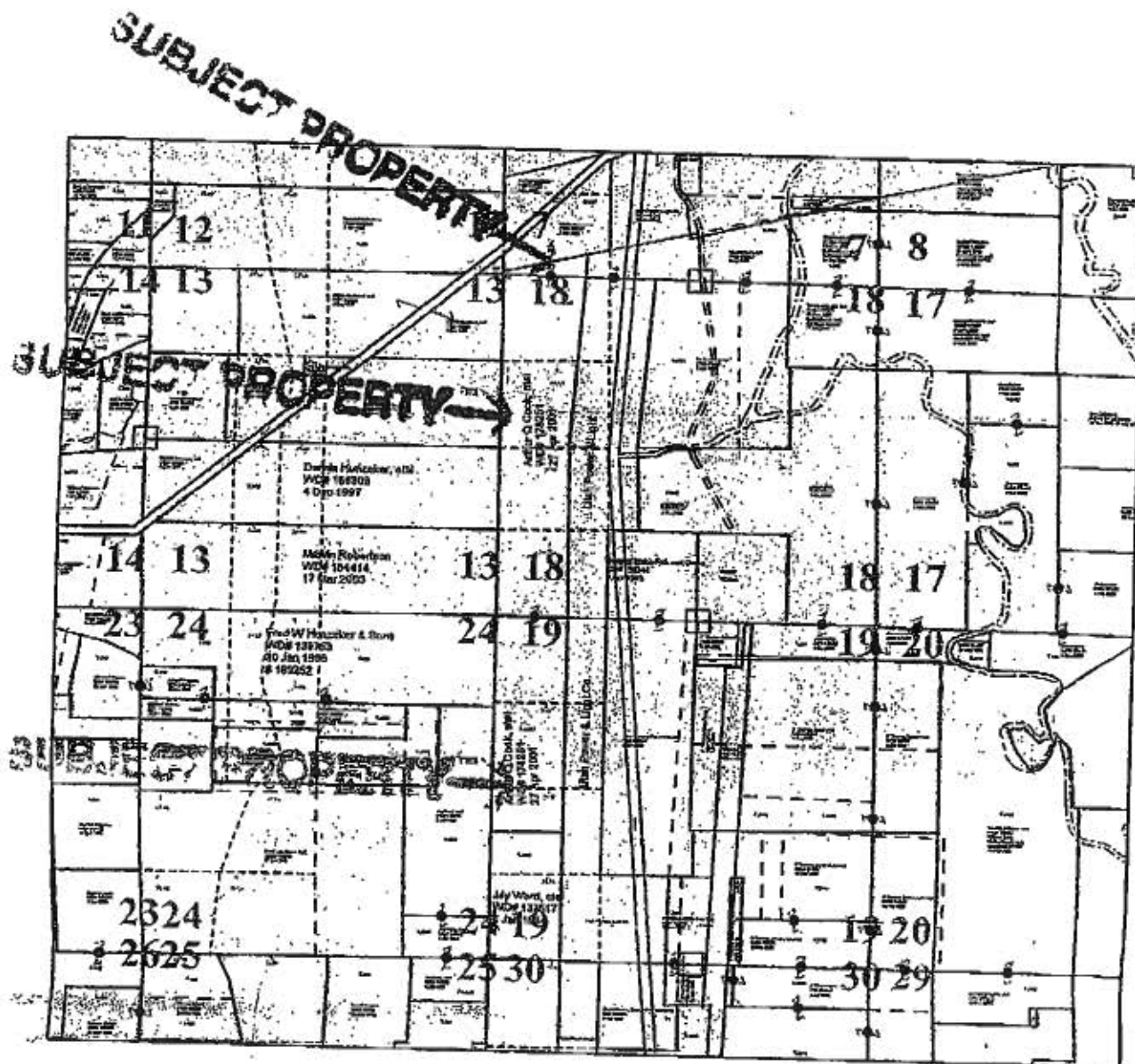
SCHEDULE B - SECTION 2
(CONTINUED)

13. Agreement for the easement and right unto said corporation, its successors and assigns, hereby by us granted, to divert, release and impound upon from and over said Lots waters now and/or in the future upon or flowing thereto, to the full quantities and extent resulting from the maintaining said dykes, and also other dykes and a dam or dams and a gate situate on lands owned by others than us, including said corporation; dated 08 June 1915 and recorded 02 July 1915 in Book 21 of Deeds, page 403, as Instrument No. 12150, records of Bear Lake County, Idaho.
Grantor: GEORGE T. THORNOCK and MARY E. THORNOCK, h/w
Grantee: UTAH POWER & LIGHT COMPANY
14. Right of Way Agreement for the privilege and right to construct, operate and perpetually maintain a canal-way with the water carrying capacity not exceeding thirty second feet, along the route of the center line of such canal-way as now staked on the ground; dated 07 June 1915 and recorded 10 November 1916 in Book 18 of Deeds, page 494, as Instrument No. 13696, records of Bear Lake County, Idaho.
Grantor: CHRISTIAN SORENSEN and MATINE SORENSEN, h/w
Grantee: UTAH POWER & LIGHT COMPANY
15. Lack of public access to and from the land.
NOTE: We are unable to ascertain from the records if the premises herein described have a means of ingress and egress to and from a legally dedicated road or highway.
16. All rights, title or interest, in minerals of any kind, oil, gas, coal or other hydrocarbons and the consequences of the right to mine or remove such substances including, but not limited to express or implied easements and rights to enter upon and use the surface of the land for exploration, drilling or extraction related purposes.

This commitment/policy does not purport to disclose documents of record pertaining to the above referenced rights.

Pursuant to the State of Idaho Insurance Regulations, a cancellation fee is to be charged on all cancelled orders. Unless otherwise advised, orders will be considered cancelled six months after the effective date of the commitment. The amount of the fee assessed shall be in accordance with our rate filing with the Idaho Department of Insurance.

NOTE: EXCEPTIONS NO. 1 - 6 WILL NOT APPEAR IN AN ALTA EXTENDED COVERAGE POLICY TO BE ISSUED HEREUNDER.



This sketch is provided without charge for your information, it is not intended to show all matters related to the property including, but not limited to area dimensions, encroachments, or location of boundaries. It is not a part of, nor does it modify the commitment or policy to which it is attached. The Company assumes NO LIABILITY for any matter related to this sketch. References should be made to an accurate survey for further information.*



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 21, 2010

Fred Hunzeker & Sons Partnership
1041 Bench Road
Montpelier, ID 83254

Re: Applications for Transfer 74806, 74807, and 74808

Dear Mr. Hunzeker,

On August 12, 2010, I sent a letter discussing the status of three transfer applications before the department (74806, 74807 and 74808). I explained that the three beneficial use claims listed in the transfers would need to be verified by the department before the transfers could be processed or approved. The first step in validating the three statutory claims is to establish the priority dates associated with the claims. The August 2010 letter asked you to provide specific evidence of priority date for each of the claims.

On October 18, 2010, Keith Wilson from Rocky Mountain Environmental dropped off a stack of papers at our office. There was no cover letter from Mr. Wilson nor any explanation of the documents or how they relate to the statutory claims. I have spent some time reviewing the documents submitted. Unfortunately, the documents do not provide any additional support for the three statutory claims in question (11-4095, 11-7585, and 11-7586). It is important for you to understand why the documents submitted do not support the claims filed.

The first two pages of the packet (Teuscher Fax 2-3) describe notices posted by Ovid Agricultural and Irrigating Company for diversions from North Creek. Although the place of use described in the notices overlaps the place of use described in claim 11-4095 by 80 acres, the source listed is entirely different. The posted notices describe a point of diversion that is miles away from the point of diversion described in claim 11-4095. North Creek underwent a local adjudication in 1902. It is unlikely that you would be able to obtain a water right from North Creek with a priority date earlier than 1902.

The next part of the packet (Teuscher Fax 4-5) describes a notice posted by Nielsen, Peterson, and Quarrell? for two ditches out of Ovid Creek. The notice specifically identifies the acres to be irrigated. There is no overlap between the place of use described in the notice and the place of use claimed in 11-4095 and 11-7585. Therefore, the posted notice does not provide any support for the irrigation of the lands described in your claims. Please note that the water described in this posted notice has been claimed by other individuals who own property located within the place of use described in the notice.

The next part of the packet (Teuscher Fax 6-12) includes agreements relating to the Bear Lake Outlet Canal and the sloughs and dikes in that area. A number of the agreements are simply rights-of-way granted to Utah Power and Light Company by various land owners. These easements for the Bear Lake Outlet Canal and its associated dikes do not constitute evidence of diversion. Two of the agreements, No. 13696 (Teuscher Fax page 8) and No. 12078 (Teuscher Fax page 10), are of particular interest. The agreements gave Christian Sorensen the authorization to construct a dam to collect and divert overland flows away from the Bear Lake Outlet Canal. This structure is visible from aerial photography and is identified in the margin of Teuscher Fax page 11 as the "Thronock Dam." The agreements indicate that the dam was constructed to protect the dikes of the outlet canal from being eroded by waters in the surrounding sloughs. These documents provide evidence of the diversion of the slough water at the Thronock Dam. The point of diversion would be the Thronock Dam. These agreements refer to channels carrying water from Ovid Creek, but do not identify the channels specifically. The agreements do not authorize any diversion of water from Ovid Creek and do not describe the acres to be irrigated with the water diverted from the Slough. Therefore, these agreements do not provide support for your statutory claims out of Ovid Creek. You may want to consider amending your claims to list the Thronock Dam as the point of diversion and unnamed sloughs as the water source. Of course, this change would not give you any right to divert water from Ovid Creek.

The homestead patent to Anders Nielsen does not provide any evidence in support of your claims. The General Land Office record refers generally to any water rights, ditches, or canals that may be recognized under local laws. It is standard language included in most homestead patents and does not constitute evidence of a specific diversion or water right.

Finally, the Warranty Deed from Cook to Hunzeker & Sons Partnership refers back to the dikes and embankments constructed under the authority of the Utah Power and Light agreements. This is further evidence that the dikes and embankments, including the Thronock Dam, were constructed to collect and divert slough waters around the Bear Lake Outlet. This warranty deed does not refer to Ovid Creek or to any diversion structures on Ovid Creek.

To summarize, before your transfers can be processed, the statutory claims listed in the transfers must be validated by the department, including the priority dates claimed. Mr. Wilson from Rocky Mountain Environmental collected a number of documents. However, none of the documents provided support the claims in question. The documents provided are related to activity on upper North Creek and sloughs near the Bear Lake Outlet, not the middle section of Ovid Creek. As it stands, we have no evidence of priority associated with statutory claim 11-4095. The only evidence of priority associated with statutory claims 11-7585 and 11-7586 are the affidavits from Mr. Wayne Johnson, that state that he had personal knowledge of the irrigation practices in the area since 1942. These affidavits may support a priority date of 1942 for claims 11-7585 and 11-7586.

Your options remain similar to those outlined in the August, 2010 letter. You can continue to search for specific evidence supporting the priority dates listed in your statutory claims. You can move forward with the evidence available at this time (Statutory claims 11-7585 and 11-7586 would receive a 1942 priority date and a field exam will confirm the extent of current beneficial use. Statutory claim 11-4095

would be dropped from the transfers.). Or, you can withdraw the transfers and wait to make the changes contemplated by the transfers until your water rights are adjudicated by a court. You can also amend claims 11-7585 and 11-7586 to list the source as "unnamed sloughs" and the point of diversion as the Thornock Dam. If you choose this option, the claims may receive a priority date of 1915, but the claims and any transfers of the claims would be limited to the amount of water available in the sloughs, not in Ovid Creek.

I originally set a 60-day time period to collect evidence. I will extend this collection period by another 30 days. Please provide additional evidence of priority, or withdraw the transfers, or notify our office that you wish to proceed with the existing evidence on or before November 20, 2010. If we do not receive a response by November 20, 2010, we will take that to mean that you are no longer interested in pursuing the transfers and will likely take steps to void the transfer applications.

Thank you for your continued cooperation in this matter. Feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Cefalo', written in a cursive style.

James Cefalo
Water Resources Program Manager
IDWR – Eastern Region

Cc: Keith Wilson
Rocky Mountain Environmental

RECEIVED

NOV 18 2010

Department of Water Resources
Eastern Region

Fred Hunzeker & Sons Partnership
1041 Bench Road
Montpelier, ID 83254

State of Idaho
Department of Water Resources
Eastern Region
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402 - 1718

11/17/2010

To Whom It May Concern:

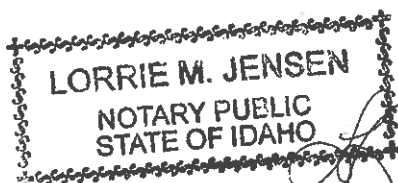
Please rescind our applications for transfer of application numbers 74806, 74807, and 74808, we being the partnership of Fred Hunzeker & Sons partnership.

Fred Hunzeker & Sons Partnership

Fred Hunzeker & Sons Partnership

By Roger G Hunzeker - owner

Roger G Hunzeker



*Lorrie Jensen
Montpelier Idaho
Bear Lake County*

11-17-2010



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

November 19, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Fred Hunzaker & Sons, Partnership
1041 Bench Rd
Montpelier ID 83254

RE: Applications for Transfer #74806, 74807 and 74808

Dear Applicant:

This letter is to acknowledge receipt of your relinquishment of the above referenced application. The Department has taken the steps necessary to void the transfers in our files.

A refund for \$1230.00 has been requested. You should receive this in the mail in 10 days.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Sharla Cox
Water Rights Administrative Assistant

CC: Rocky Mountain Environmental
482 Constitution Way #303
Idaho Falls ID 83402

Cox, Sharla

From: Cox, Sharla
Sent: Friday, November 19, 2010 11:51 AM
To: Marston, Sascha
Subject: Refund Please

Please refund the following:

Receipt #E034060
Amount: \$1230.00
Payable to: Rocky Mountain Environmental
482 Constitution Way #303
Idaho Falls ID 83402

Reason: For Fred Hunzeker & Sons 3 transfers. Applicant withdrew their 3 applications for transfer.

Thank you.

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
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