

Page 1 of 6STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES66511  
Transfer No. 5089

## APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of applicant George A. &/or Gwen Montgomery Phone 673-6644  
Post Office address Star Rt. Box 13, Albion, ID 83311

## A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use  
☐ Change nature of use ☐ Change period of use ☒ Other Add re-diversion points SPLIT RIGHT
2. Describe the reason for the proposed changes To record a change in place of use that occurred many years ago without an approved transfer.

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

1. Right Number 45-00294D Priority 3-31-1888 Amount (cfs/ac-ft) 1.60 cfs Nature of Use Irrig. Period of Use 4-1 to 10-31
2. Total amount of water being transferred 1.60 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.
3. Source of water Lake Cleveland tributary to Sinks
4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion            |
|-----|-----|-----|-----|------|------|------|--------|-------------------------------------|
|     |     | SW  | NW  | 3    | 13S  | 24E  | Cassia | Point of diversion From lake        |
|     | NE  | NW  | SW  | 12   | 12S  | 24E  | "      | Re-diversion from Marsh Creek       |
|     |     | NW  | NW  | 27   | "    | "    | "      | Point of injection into Marsh Creek |
|     | SW  | SE  | NW  | 12   | "    | "    | "      | Re-diversion From Marsh Creek       |

## 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 |        |
| 12S  | 24E  | 12   |        | 25     |        |        | 22     |        |        | 24     |        |        |        |        |        |        |        |        | 71     |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 71

**PART 1**

## 6. General Information:

a. Description of diversion system Headgate & ditch from Marsh Lake Cleveland to Marsh Creek. Two headgates & ditches from Marsh Creek to gravity irrigation.

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:

Water has been used on our land since 1893, but never transferred thru IDWR.

d. Remarks:

Of the 80" of water dumped into Marsh Creek, we can re-divert 75" onto our farm. The whole right is for 240" going into Marsh Creek. We own 1/3 of the total.

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

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

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

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

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

**PART 2**

(Attach one copy for each right)

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

- a. Decree No. 45-002948 Decreed to Estate of John Parke  
in case of R.L. Wood et al vs. Wm. Stokes et al  
dated 3-21-1892 in Fourth District county of Cassia
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources.
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources.
- d. Transfer No. \_\_\_\_\_ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other \_\_\_\_\_

3. Source of water Lake Cleveland tributary to Sinks
4. Date or priority 3-31-1888

5. Water is used for the following purpose:

amount \* 3.2 cfs for Irrig. purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)

6. Total amount of water under right \* 3.2 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     | SW  | NW  | 3    | 13S  | 24E  | Cassia |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

8. 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 |        |
| 12S  | 24E  | 1    |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | X      |        |
|      |      | 12   | X      |        |        | X      |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      | 25E  | 6    |        |        |        |        |        |        |        |        |        | X      |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        | 47     |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above \_\_\_\_\_

\* Amount to be turned into Marsh Creek. 3.0 cfs to be re-diverted From Marsh Cr.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?  
Yes If yes, describe Water has not been available for a long time due to drought & excessive ditch loss

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount \*\* 1.6 cfs for Irrig. purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)
2. Point(s) of Diversion: Same as 2.A.7, \*\* 1.5 cfs to be re-diverted from Marsh Cr.

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

3. Lands irrigated or place of use: Same as 2.A.8.

| 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 |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres \_\_\_\_\_

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

1. amount 1.6 cfs for Irrig. purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)
2. Point(s) of Diversion: Same as 2.A.7.

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

3. Lands irrigated or place of use: Same as 2.A.8.

| 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 |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres \_\_\_\_\_



### PART 3

#### B. CHANGES IN NATURE OF USE

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

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

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

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

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

*Susan Montgomery*  
(Signature of Applicant)

Subscribed and sworn to before me this 31<sup>st</sup> day of July, 19 95.

*J.F. Stanton*  
(Notary Public)

My commission expires 10-25-2000

#### FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 5 attachments

Received by *J.F. Stanton* Date 8-31-95 Protest filed by \_\_\_\_\_

Prelim. check by *CS* Fee \$100, 5018344 \_\_\_\_\_

Receipted by *JS* Date 8-31-95 \_\_\_\_\_

Published in *Sp. Ed. Press* Copies of protest forwarded by \_\_\_\_\_

Pub. dates 6/16 & 6/23/97 Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on 6/4/97 Recommended for ☐ approval ☐ denial

\_\_\_\_\_ rec'd. \_\_\_\_\_ by \_\_\_\_\_

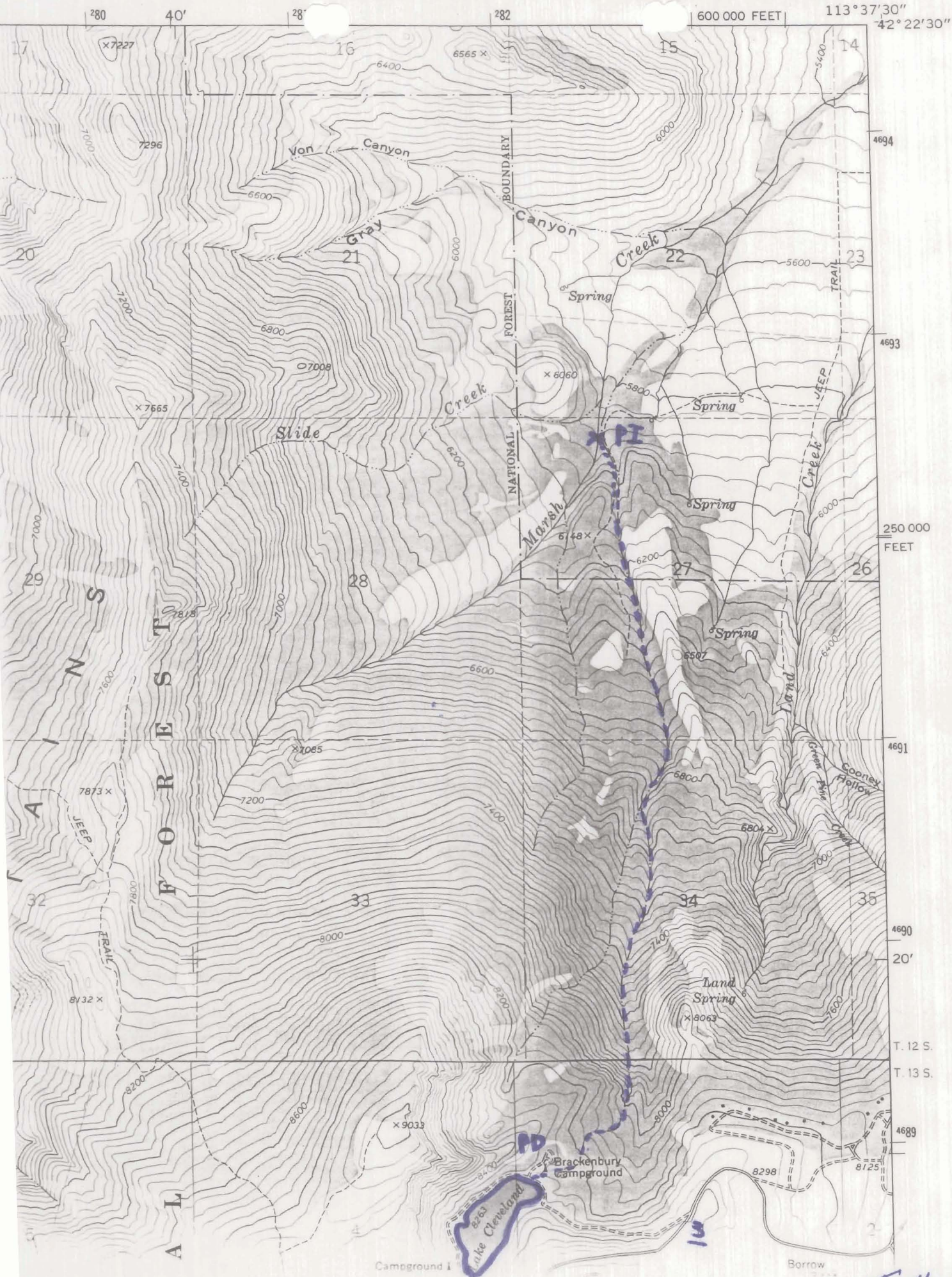
Copy of transfer sent to lien holder \_\_\_\_\_

RECEIVED

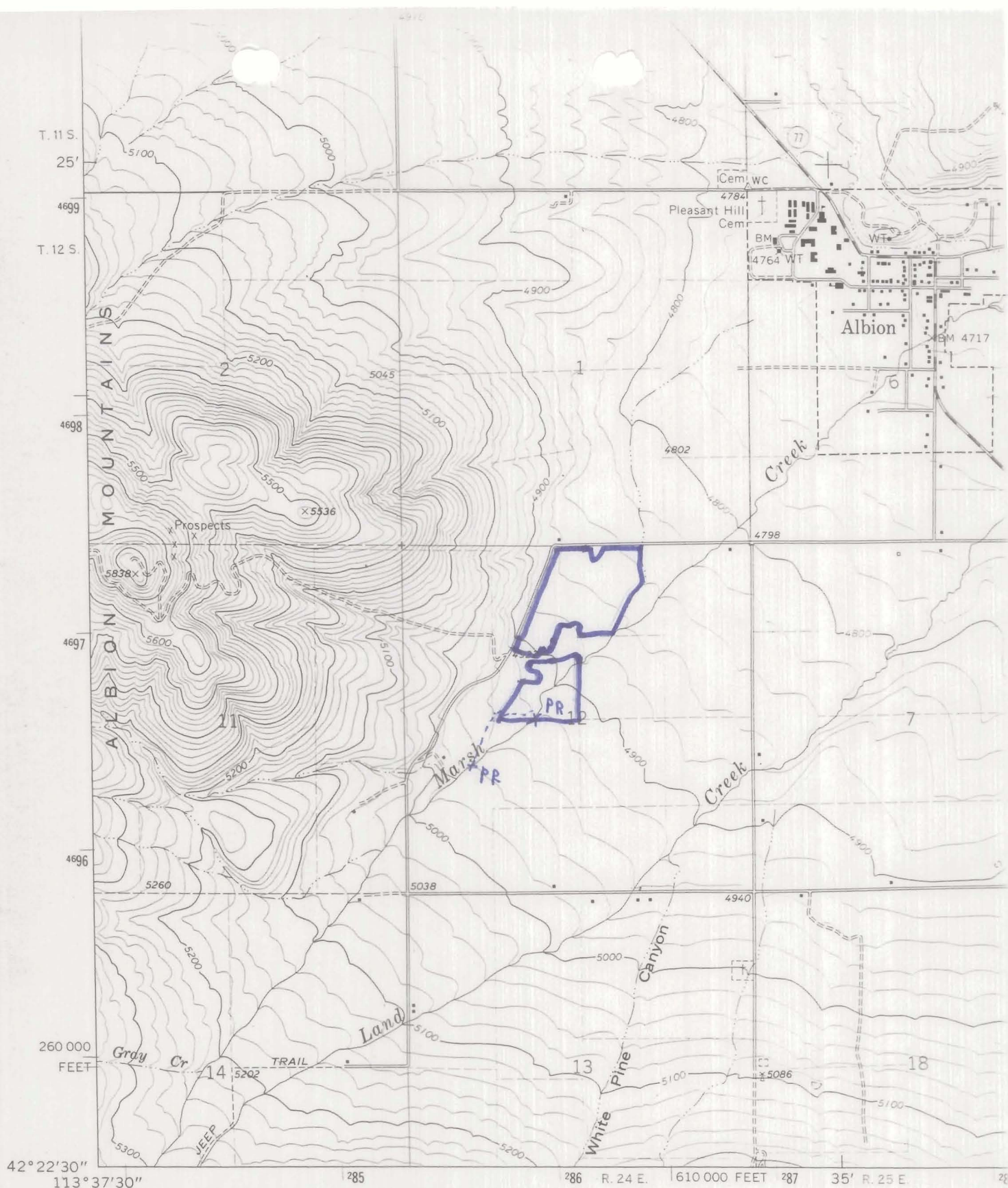
Department of Water Resources  
Southeast Region

IDAHO-CASSIA CO.  
7.5 MINUTE SERIES (TOPOGRAPHIC)

3260  
VALLEY



T# 5089



(MT. HARRISON)  
3268 / SW

Mapped, edited, and published by the Geological Survey

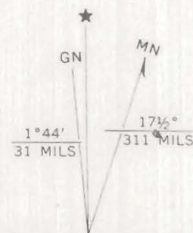
Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

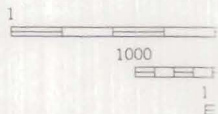
Polyconic projection. 1927 North American datum  
10,000-foot grid based on Idaho coordinate system,  
central zone

1000-meter Universal Transverse Mercator grid ticks,  
zone 12, shown in blue

Fine red dashed lines indicate selected fence lines

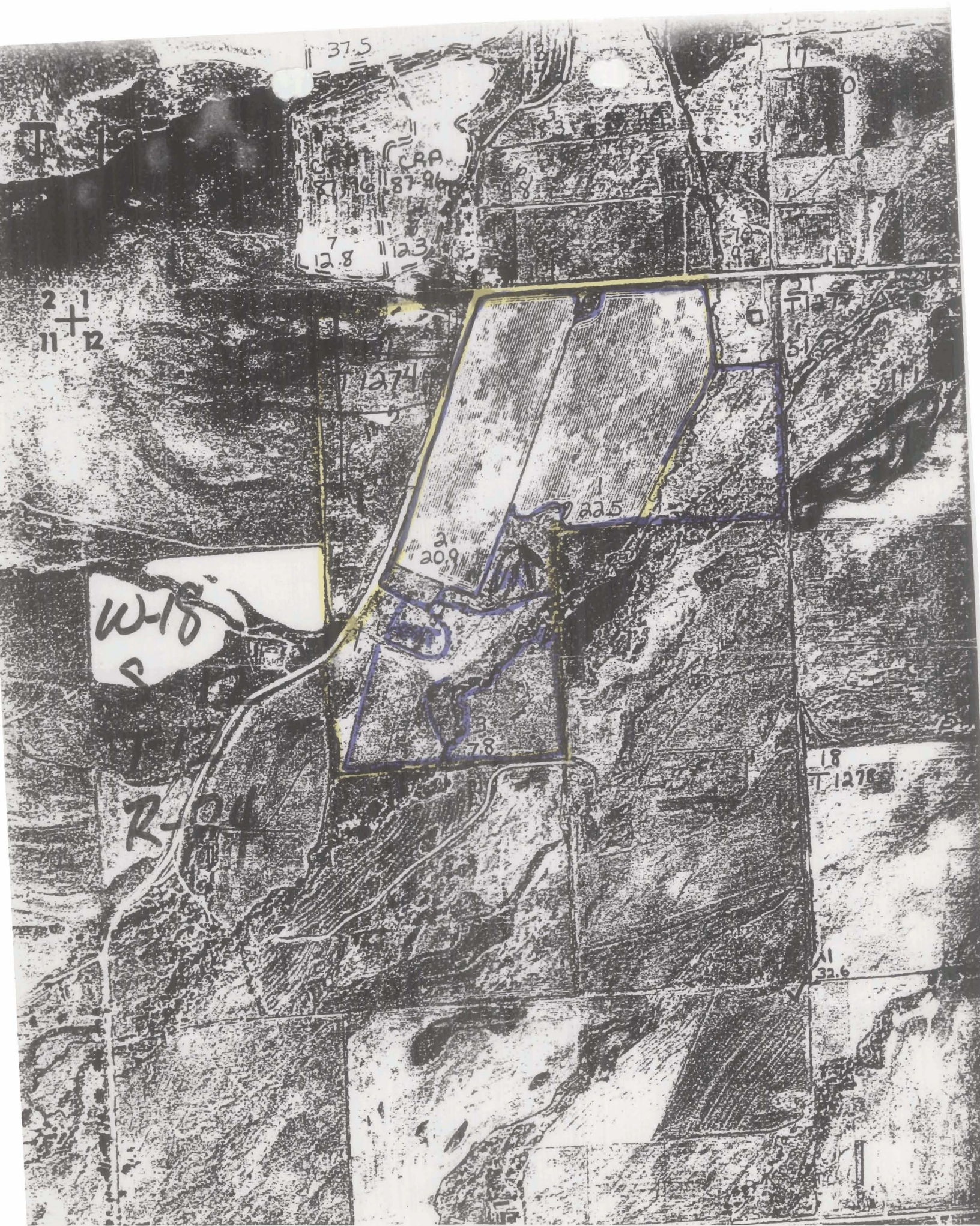


UTM GRID AND 1968 MAGNETIC NORTH  
DECLINATION AT CENTER OF SHEET



T# 5089

FOR SALE BY U.S. GEOLOGICAL SURVEY



37.5

17  
0

CRA  
87.96 87.96

7  
12.8 12.3

2 1  
11 + 12

1274

127  
51

W-18  
S

2  
20.9

22.5

3  
7.8

18  
1278

R-24

31.6

T # 5089

23031

#29031

## GUARDIAN'S DEED

FOR VALUE RECEIVED, to-wit: \$10.00

MARGUERITE HASLEY, Guardian of the Estate of Lula P. Sears, Incompetent, does hereby grant bargain, sell and convey unto ARLO MONTGOMERY, the Grantee, the following described premises in Cassia County, Idaho, to-wit:

Sec 12 E 1/2 NW 1/4

The East Half of the Northwest Quarter (E 1/2 NW 1/4) of Section Twelve (12), and Beginning at the Northwest corner of the Northeast Quarter (NE 1/4) of Section Twelve (12), Township Twelve (12) South, Range Twenty-four (24) East of the Boise Meridian; thence South 84 Rods; thence East 78 Rods; thence North 84 Rods; thence West 78 Rods to the Point of Beginning. SUBJECT TO a loan with the Federal Land Bank of Spokane, which the Grantee assumes and agrees to pay, as well as a mortgage in favor of Southern Idaho Production Credit Ass'n.

This Deed is executed pursuant to an Order Confirming Sale in the Estate of Lula P. Sears, Incompetent, and filed in the office of the County Recorder, Cassia County, State of Idaho, recorded March 20, 1966, as Instrument Number 38221, Page Number 20.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs, and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the estate of Lula P. Sears, Incompetent, is the owner in fee simple of said premises; that they are free and clear from all encumbrances, excepting as set out above and that they will warrant and defend the same from all lawful claims whatsoever.

WITNESS our hands this 4 day of April, 1966.



*Marguerite Hasley*  
MARGUERITE HASLEY, Guardian of  
the Estate of Lula P. Sears, In-  
competent

STATE OF IDAHO )  
Notary: 58  
County of Cassia )

On this 4 day of April, 1966, before me a Notary Public in and for said State, personally appeared MARGUERITE HASLEY, Guardian of the Estate of Lula P. Sears, Incompetent known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

*[Signature]*  
Notary Public for Idaho  
Residing at:

(SEAL)



T #5089

STATE OF IDAHO.

COUNTY OF CASSIA.

I , Andrew H. Parke, being first duly sworn  
depose and say, that I am a citizen of the United States and of the  
State of Idaho, over the age of 21 years.

That as Administrator of the estate of John Parke, I sold one third  
of the waters of Lake Cleveland, to Ira Parke, who was then the  
owner of the following described tract of land. in Cassia Co. Idaho.

Commencing at the Northwest ~~xxxxxx~~ corner of the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>  
of Sec, 12, Twp 12 S. R 24 E. B. M. Thence East on the North  
Boundary line of said section 78 rods; Thence South on a line  
parallel with the East boundary line of said Section 84 rods; thence W  
West at Right angles 78 rods; Thence North at right angles 84 rods to  
the place of beginning. Also the East half of the Northwest quarter  
of Sec 12, Twp 12 S. Range 24 E. B. M.

I know of my own knowledge that the said waters have been used  
on the above described land every year since that sale, which was  
about 1893, that said water has never been used upon any other  
land.

Andrew H. Parke

Subscribed and sworn to before me this 25th day of July, 1934.

S. H. Korman  
Notary Public residing at Burley, Idaho.

T# 5089

INDEXED

121100

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

I hereby certify that this instrument was filed for record at request of S. J. Smith

Liberty Co.  
at 10 minutes past 3

o'clock P.M., this 25<sup>th</sup> day  
of July A. D., 19 36

in my office, and duly recorded in  
Book 9 of Winn at  
page 570.

S. J. Smith  
Ex-Officio Recorder.

By S. J. Smith Deputy,

Fees \$ 1.00

B-4591 - Will's m. & s. m.

Federal Land Bank  
Spokane