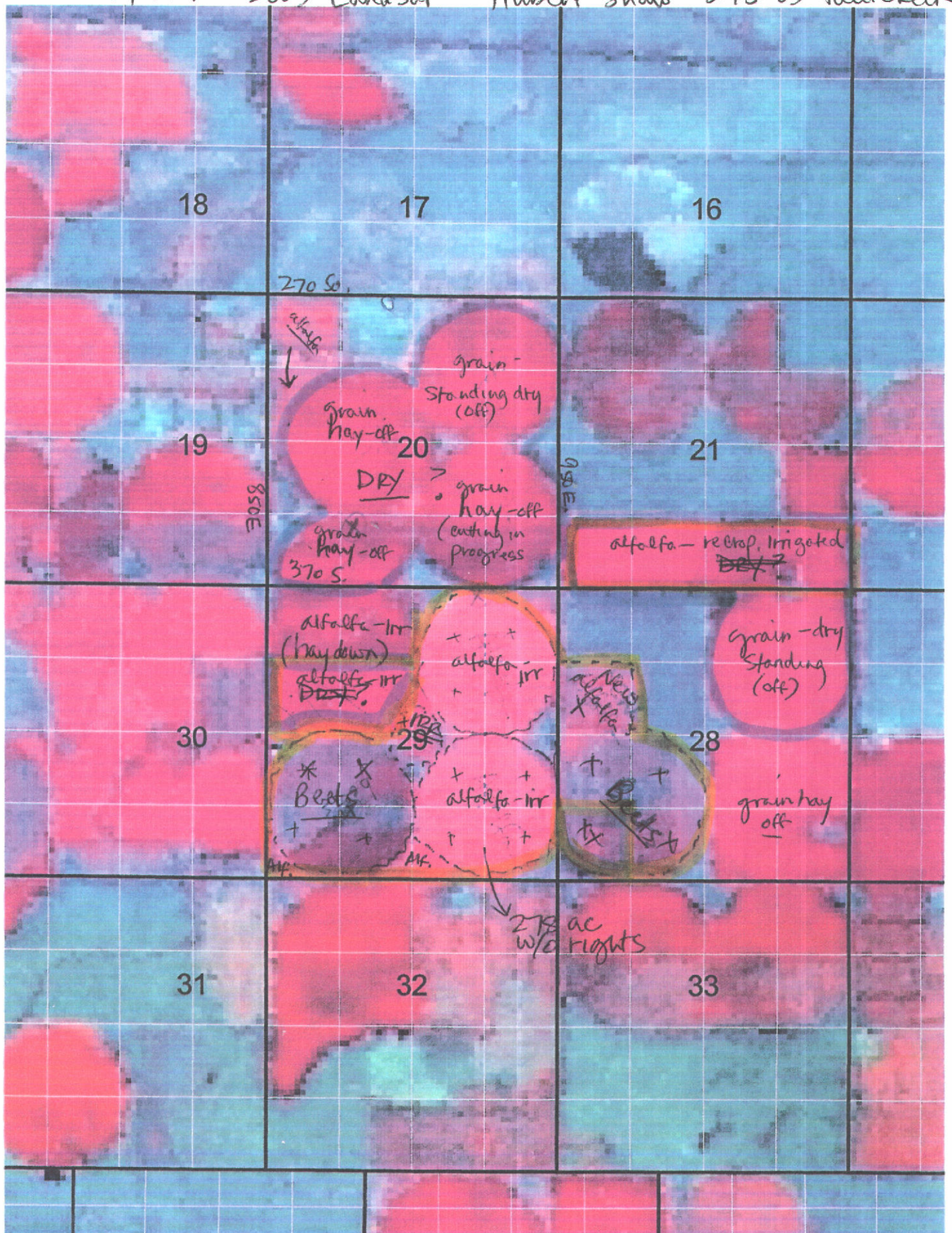


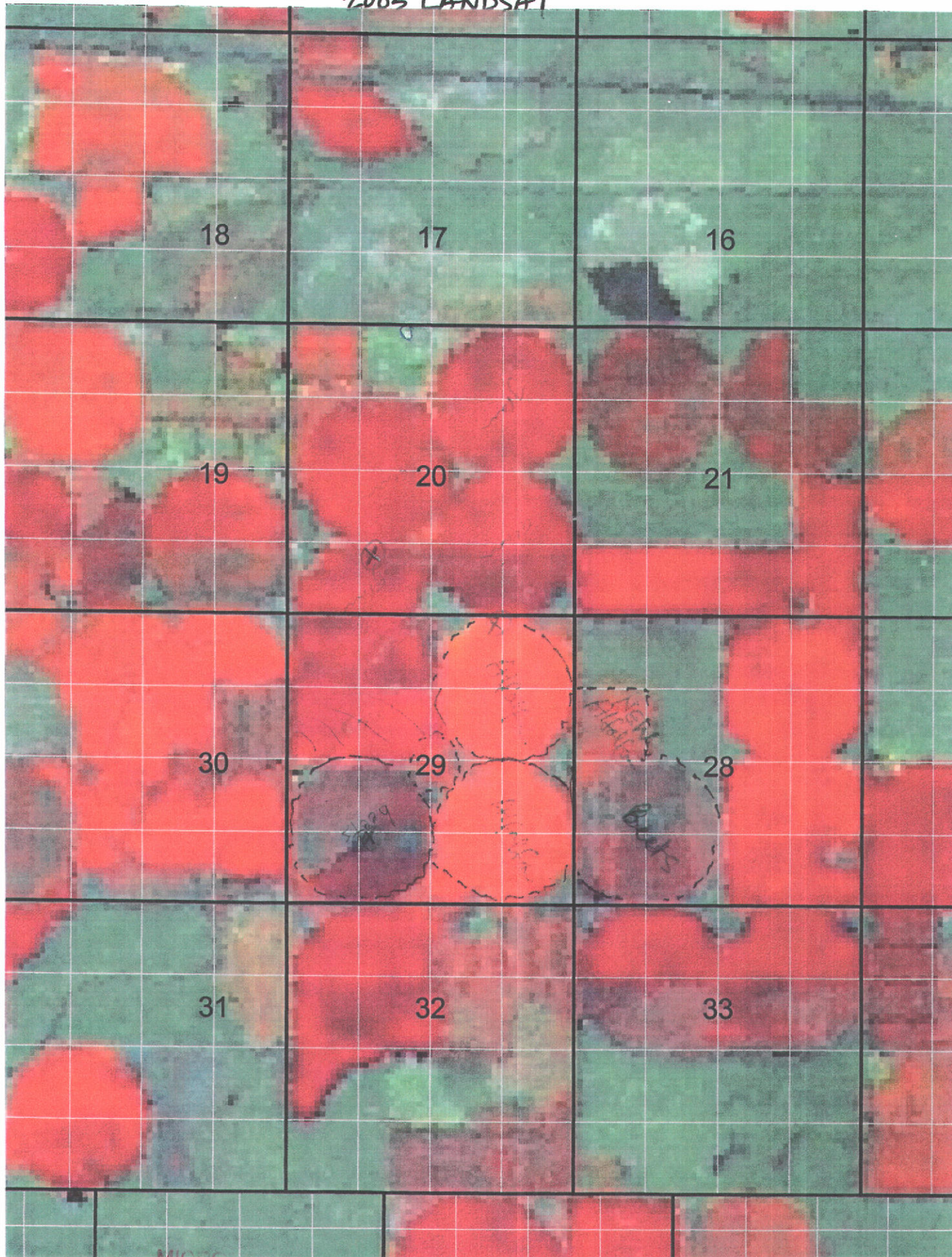
Cyenter 2003 Landsat Hubert Shaw 8-15-03 field check



MICROFILMED

OCT 20 2003

2003 LANDSAT



MICROFILMED

OCT 20 2003

[illegible]

MICROFILMED
OCT 20 2003

RECEIVED

AUG 26 2003

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT TC-37-31)
IN THE NAME OF W. M. SHAW)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Lincoln County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources ("Department") is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water, as provided in section 42-240, Idaho Code, when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on August 13, 2003 W. M. Shaw ("applicant") submitted the attached Temporary Change Application ("application") to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions; and

WHEREAS, The applicant assumes all risk and is the responsible party if diversion and use of water under the temporary change approval causes injury to other water rights or constitutes an enlargement in use of the original right;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

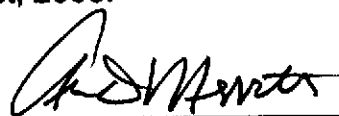
1. Diversion and use of portions of rights no. 37-7394 and 37-7814 are authorized only at the point of diversion listed on the application and places of use highlighted in "red" on the application or as otherwise approved in this order.
2. This temporary change approval does not authorize construction of a new well.

MICROFILMED
OCT 20 2003

dy

3. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.
4. Portions of Right no. 37-7394 and 37-7814 (3.58 cfs total representing irrigation of 278 acres out of 461.8 acres) is authorized during the remainder of the irrigation season on those lands identified on the application as highlighted in red. The remainder of right 37-7394 and 37-7814 (2.36 cfs on 183.8 acres) shall remain un-used for the remainder of the irrigation season. Irrigation of all lands in Section 20, T6S, R19E normally irrigated by rights 37-7394 and 37-7814 shall cease for the remainder of the irrigation season in lieu of irrigation of those lands highlighted in red on the application.
5. The applicant agrees to hold the director and the state of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
6. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
7. To prevent injury to other water rights the watermaster of Water District No. 130 is authorized to administer the temporary change approval. When these rights and others appurtenant to the lands identified on the application are combined no more than 0.02 cfs per acre may be diverted at any one time.
8. This temporary change approval expires on November 1, 2003 unless rescinded or extended by the director. Thereafter, the water rights shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 22nd day of August, 2003.



Allen Merritt
Southern Region Manager

CERTIFICATE OF MAILING

I hereby certify that on the 22ND day of August, 2003 a true and correct copy of the above and foregoing Order Authorizing Temporary Change was forwarded with all required charges prepared, by Regular U.S. Mail to the parties listed:

W.M. SHAW
411 S 750 E
DIETRICH ID 83324

Mary Baldwin

Mary A. Baldwin
Administrative Assistant I

MICROFILMED

OCT 20 2003

RECE

AUG 13 2003

Department of Water Resources
Southern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

TEMPORARY CHANGE APPLICATION

AUG 26 2003

Department of Water Resources

(To change point of diversion, place of use or purpose of use)

Name of Applicant W. M. Shaw Phone 208-544-7534Post Office Address 411 S 750 E, Dietrich Id. 83324

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and the reason(s) thereof To move ground water right to cover lands that need water to grow crops that normally have a full surface water supply from Big Wood Canal. From May 10 Reservoir

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
37-7149	6-26-1972	4.46	Irrigation	4/1 to 10/31
37-4705	2-21-1991	7.00	Irrigation	4/1 to 10/31
37-7394	12-10-1974	5.94	" "	" to 11/1
27-7814	12-10-79	11.40	" "	" to 11/1

2. Total amount of water being transferred 11.46 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Ground Water tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NW	NE	NE	29	6S	19E	Lincoln	Roger Well
		NE	SW	SW	29	6S	19E	Lincoln	Orr Well
		NW	SE	SW	20	6S	19E	Lincoln	Feedlot Well

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6S	19E	29	33	33	33	33				10	40	33	40	40	33	40	40	33	448
					40														
6S	19E	29							40		33	40	40	33					156

* See Order authorizing
use on highlighted
acres. Total 278 acres

MICROFILMED

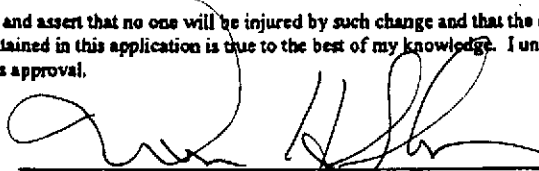
AUG 28 2003

Total Acres 604

6. General Information:

- a. Who owns the water right to be changed? APPLICANT
- b. Describe the arrangement allowing use of the right It is applicant's Rights
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
It will Not be irrigated
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. Was used on grain that is not being irrigated
- e. Absent the changes, how would the right be used for the remainder of the year? Some would remain to be used on land other portion would not be used.
- f. Describe other water rights used for the same purpose. Not currently available share in Big Lost
- g. Remarks: have been Curtailed -

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and 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.


(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by P. SKINNER Date 8/13/2003 Fee \$50.00
Received P. SKINNER # S026048 Recommend: approve deny
Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-37-31
And said application is hereby approved in part subject to the following limitations and conditions:

See Attached Order dated 8/22/03

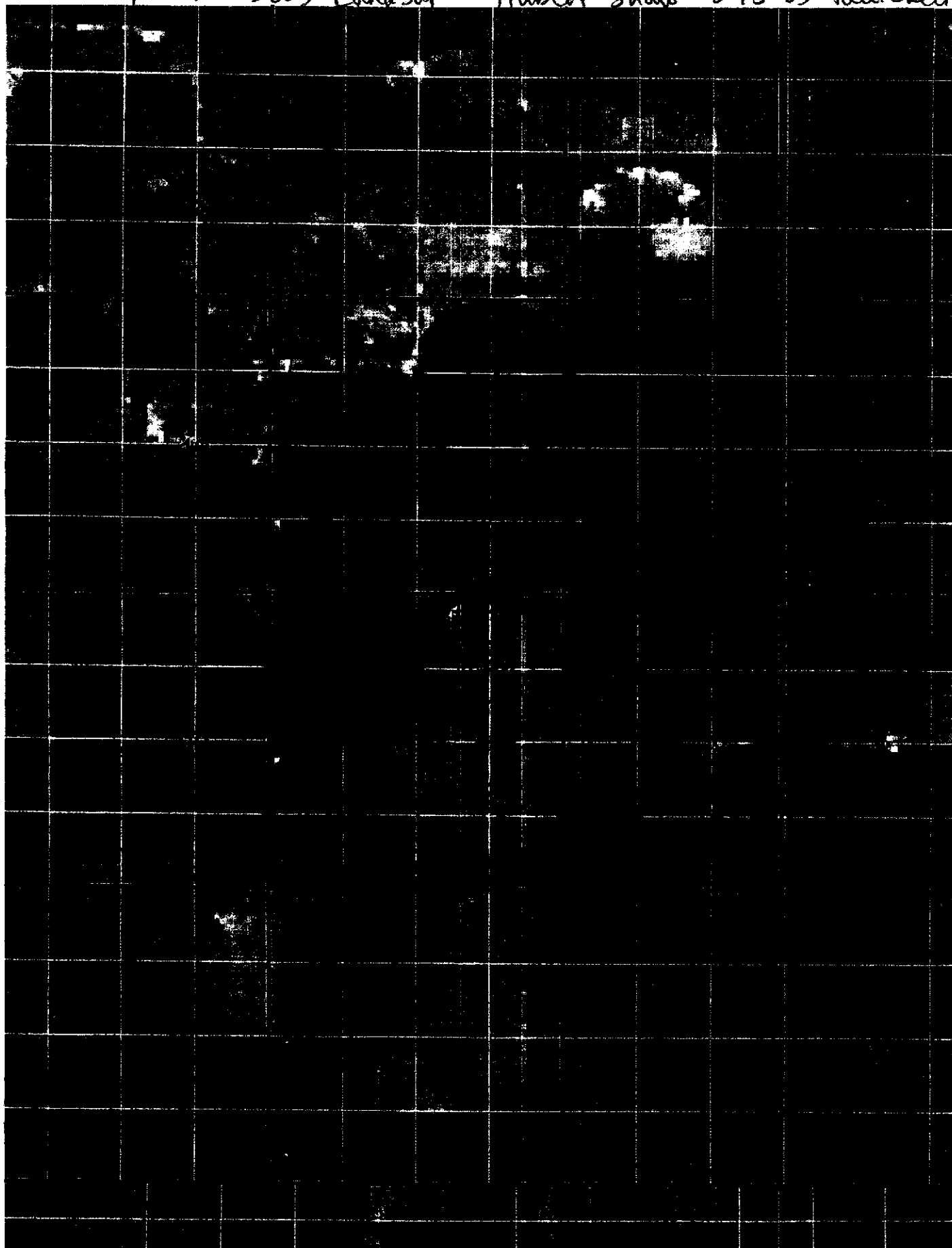
Witness my hand this 22nd day of August 2003.

MICHAEL J. [Signature]

For the Director

OCT 20 2003

Cyenter 2003 Landsat Hubert Shaw 8-15-03 fieldcheck



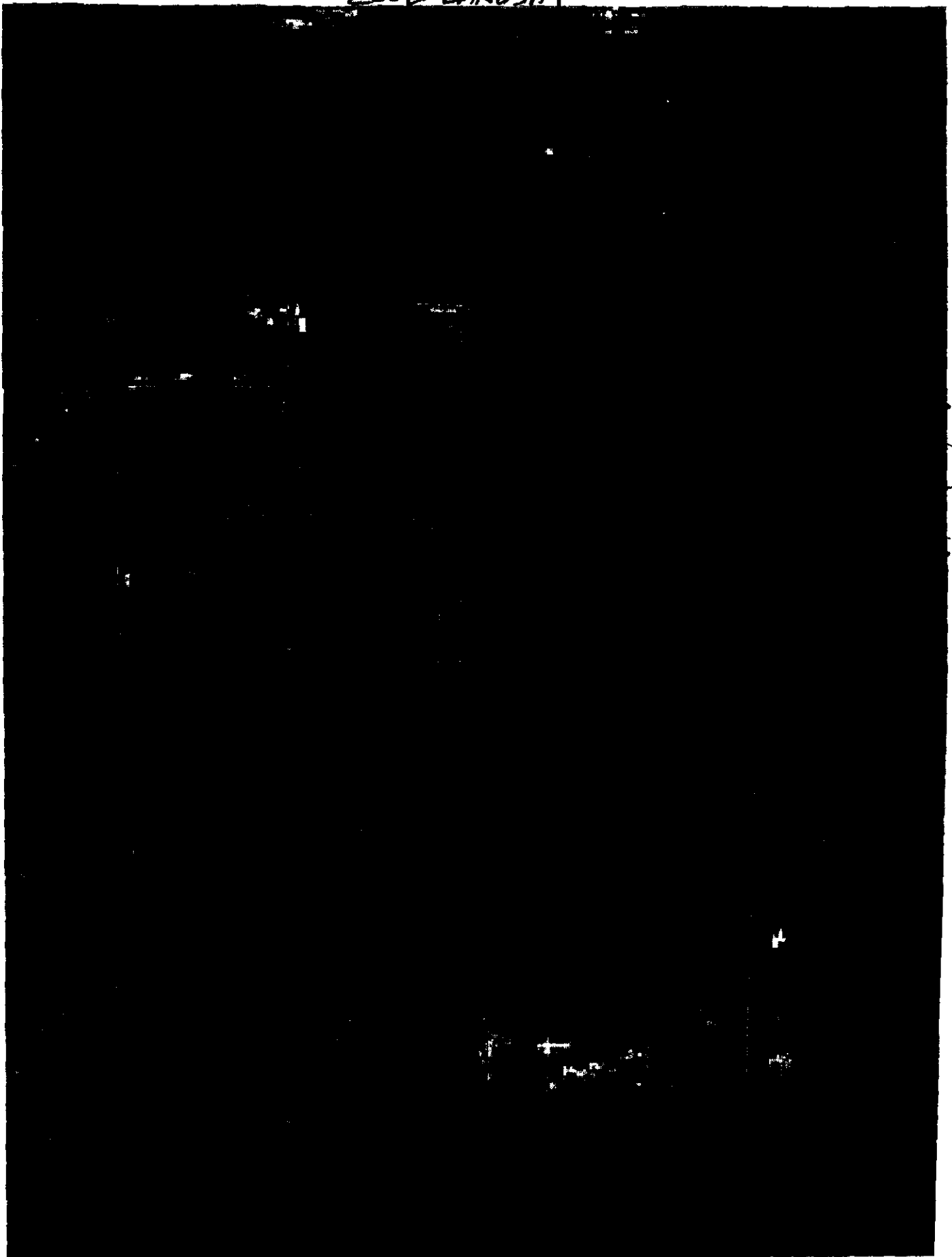
MICROFILM

OCT 20 2003

2003 LANDSAT

OCT 26 2003

2002 LANDSAT



MICROFILMED

OCT 26 2003

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-07394

NAME AND ADDRESS: WILLIAM HUBERT SHAW
411 S 750 E
DIETRICH, ID 83324

SOURCE: GROUND WATER

QUANTITY: 5.94 CFS
1825.40 AFY

USE OF THIS RIGHT WITH RIGHT NO. 37-7814 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 5.94 CFS.

PRIORITY DATE: 12/01/1974

POINT OF DIVERSION: T06S R19E S20 NWSESW Within Lincoln County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	5.94 CFS 1820.00 AFY
	Stockwater	01-01 TO 12-31	0.09 CFS 5.40 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE [APRIL 1] AND AFTER [NOVEMBER 1] UNDER THIS
REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED
EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN
THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Lincoln County
	T06S R19E S20	NENE 37.0 NWNE 29.0 SWNE 35.0 SENE 35.0 NENW 8.8 SWNW 21.0 SENW 35.0 NESW 39.0 NWSW 28.0 SWSW 30.0 SESW 36.0 NESE 30.0 NWSE 33.0 SWSE 33.0 SESE 32.0
	461.8 Acres Total	

Stockwater	Within Lincoln County
T06S R19E S20	NENW

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 455 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

MICROFILMED
OCT 20 2003

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

MICROFILMED

OCT 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 22, 2003

W.M. SHAW
411 S 750 E
DIETRICH ID 83324

Re: Temporary Change Application No. TC-37-31

Dear Mr. Shaw:

Your Temporary Change Application as referenced above has been GRANTED.

Please be advised that the enclosed ORDER AUTHORIZING TEMPORARY CHANGE contains special conditions of approval.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Allen D. Merritt, P.E.
Southern Region Manager

Enclosure(s)

MICROFILMED

OCT 20 2003

MEMORANDUM

August 15, 2003

TO: Allen Merritt
FROM: Cindy Yenter, Watermaster Water District 130 (Cy)
RE: W H Shaw Temporary Change Application

I made a field visit of Mr. Shaw's farm today to verify that there are sufficient acres under valid ground water rights on which a crop has been completed, and that lands are still being irrigated where surface water rights have been curtailed.

Last week I spoke with Lee Peterson, WD37 Watermaster, who indicated that the Big Wood Canal serving this area would be closed on August 8. Today, the surface water laterals were dry and Mr. Shaw's lands were being irrigated from ground water. The irrigation system is fully integrated by means of relift stations from holding ponds, and surface water is commingled with necessary ground water as long as surface water is available.

The attached 2003 Landsat photography shows the location of irrigated and completed crops as of today. The 2002 Landsat photo also attached shows the location of Mr. Shaw's ground water rights and the three existing wells.

Irrigated crops were found on:

All lands within Section 29 except the N $\frac{1}{2}$ NW; SWNW and SW $\frac{1}{4}$ Section 28; and S $\frac{1}{2}$ S $\frac{1}{2}$ Section 21; all in T06S R19E, Lincoln County, totaling approximately 835 acres. Of these acres, 278 do not have a valid water right from ground water, and 557 are being irrigated under Mr. Shaw's water right nos. 37-7149 and 37-8705.

Completed (non-irrigated crops) were found on:

All lands within Section 20 with the exception of NWNW; NE $\frac{1}{4}$ Section 28; all in T06S R19E, Lincoln County, totaling approximately 600 acres. These crops, all small grains which have either been harvested or are standing dry awaiting harvest, were irrigated under water right nos. 37-7394, 37-7814 and a portion of 37-8705.

Mr. Shaw's application seems to include all acres which he intends to continue irrigating for the remainder of the season, even those which already have a ground water right associated with them. He does not, however, include irrigated acres found in S $\frac{1}{2}$ NW Section 29 and S $\frac{1}{2}$ S $\frac{1}{2}$ Section 21, indicating perhaps that he is finished with irrigation for the season. On these acres, alfalfa hay was down but there is strong indication that irrigation may continue here. Since alfalfa is a perennial crop, I would not conclude that the crop is completed for this year. Water rights from these acres should not be eligible for transfer.

Mr. Shaw's application seeks temporary change under all four of his water rights. I find this incorrect and misleading, as 37-7149 is still in use in its entirety and 37-8705 is still partly in use. In fact, there are sufficient acres available under right nos. 37-7394 and 37-7814 to cover the

MICROFILMED

OCT 20 2003

278-acre shortfall found in sections 28 and 29. The transfer should be limited to only these two rights. Otherwise, Mr. Shaw may find himself with unauthorized uses in other areas for the remainder of the season.

I recommend the approval of this temporary change subject to the following conditions:

- Limit transferred acres to those found under water right nos. 37-7394 and 37-7814 which have been verified as completed for the season.
- Adjust temporary place of use to reflect only the 278 acres which require a water right.
- Prohibit stubble irrigation on transferred-from acres during 2003.

MICROFILMED

OCT 20 2003

MEMORANDUM

August 11, 2003

TO: Office Day Staff
FROM: Cindy Yenter
RE: W. Hubert Shaw Application for Temporary Change

Last year, Mr. Shaw filed an Application for Temporary Change under DWR's emergency drought provisions, to authorize irrigation from ground water to complete the irrigation season for acres which were no longer receiving deliveries of Big Wood Canal water. The rights temporarily changed were appurtenant to lands on which irrigation was no longer occurring in 2002 because crops were already completed.

Water District 130 has already observed this year that at least some of the lands owned by Shaw and served only by Big Wood Canal shares are planted in beets and alfalfa. Since the Big Wood Canal closed its headgates on August 8, these crops are most likely now being irrigated with ground water. Mr. Shaw indicates that other lands under his ground water rights are no longer being irrigated. Lincoln County has received an emergency drought designation again this year and temporary transfers should be available from DWR. **Mr. Shaw must obtain an emergency transfer in order to avoid curtailment by the Water District and a Notice of Violation from IDWR.**

The attached 2002 landsat photography shows the location of Mr. Shaw's ground water rights. The lands we have observed in need of a transfer are:

E½E½ Section 29, T6S R19E
SWNW, N½SW¼ and SESW Section 28, T6S R19E

There may be other lands which are operated by Mr. Shaw which are also in need of emergency transfer. Mr. Shaw will have to identify those, as well as the lands which are no longer being irrigated this year with appurtenant rights which may be eligible for transfer. I have attached copies of the ground water rights.

After the Application for Temporary Change is filed, Water District 130 will conduct a field inspection to confirm all the acres identified under the application.

MICROFILMED

OCT 20 2003