

COPY

AMENDED
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Please send all notices and correspondence to: Scott L. Campbell, Elam & Burke, P.A.
P.O. Box 1539, Boise, ID 83701
Phone (208) 734-5533Name of applicant L & S Partners, c/o Steve Aslett
Post Office address P.O. Box B, Twin Falls, ID 83303-0015

RECEIVED

JUN 14 1999

Department of Water Resources
Eastern Region

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 _____
2. Describe the reason for the proposed changes The changes are pursuant to a water rights purchase agreement executed between L & S Partners and McCaleb Estates, Inc.

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

1. Right Number 34-04035C Priority 8/1/60 Amount (cfs/ac-ft) 1.31 cfs/ 229.25 af Nature of Use Irrigation Period of Use 4/15 to 10/15
2. Total amount of water being transferred 1.31 cubic feet per second and/or 229.25 acre-feet per annum.
3. Source of water ground water tributary to _____
4. Point(s) of Diversion: _____

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	SE	6	8N	22E	Custer	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
8N	22E	6													20			40	60
		7	5.5																5.5

Total acres 65.5

PART 1

6. General Information:

- a. Description of diversion system Water will be delivered to the place of use through a pipeline from the well and a pump to the sprinklers.

- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes XX _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Water will no longer be used on the land now irrigated under this water right.

- d. Remarks:

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. Partial 34-04035C Decreed to McCaleb Estates, Inc.
 in case of In re SRBA Case No. 39576 vs. _____
 dated December 23, 1997 in Twin Falls county of Idaho

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 Ground water tributary to _____

4. Date or priority 8/1/60

5. Water is used for the following purpose:

amount 1.31 cfs for irrigation 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 _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SW	NE	34	7N	24E	Custer	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	24E	34			10	6.5					30	16			30	16			62.5
7N	24E	35										3							3.0

9. Describe any other water rights used for the same purpose as described above 34-0227K and 34-00830C Total acres 65.5

PART 2

10. 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 _____

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 _____ for _____ 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:

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

3. 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	

Total acres _____

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

1. amount _____ for _____ 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:

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

3. 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	

Total acres _____

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

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ 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.

Steve Galt

(Signature of Applicant)

Subscribed and sworn to before me this 7 day of June, 19 99.

Bonnie Jimpliman

(Notary Public)

My commission expires 2/12/02

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments	Protest filed by _____
Received by _____ Date _____	Copies of protest forwarded by _____
Prelim. check by _____ Fee _____	Hearing held by _____ Date _____
Receipted by _____ Date _____	Recommended for ☐ approval ☐ denial
Published in _____	by _____
Pub. dates _____	
Watermaster recommendation requested on _____	
_____ rec'd. _____	
Copy of transfer sent to lien holder _____	

5 5

Transfer No. 66820

PART 3

B. CHANGES IN NATURE OF USE

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				to
				to

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Steve Ault

(Signature of Applicant)

Subscribed and sworn to before me this 7 day of June, 19 99

Bonnie Templeman

(Notary Public)

My commission expires 2/12/02

FOR DEPARTMENT USE ONLY

Transfer contains 5 pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Published in Challis Messenger

Pub. dates Jan 11 and 18, 2007

Watermaster recommendation requested on _____

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

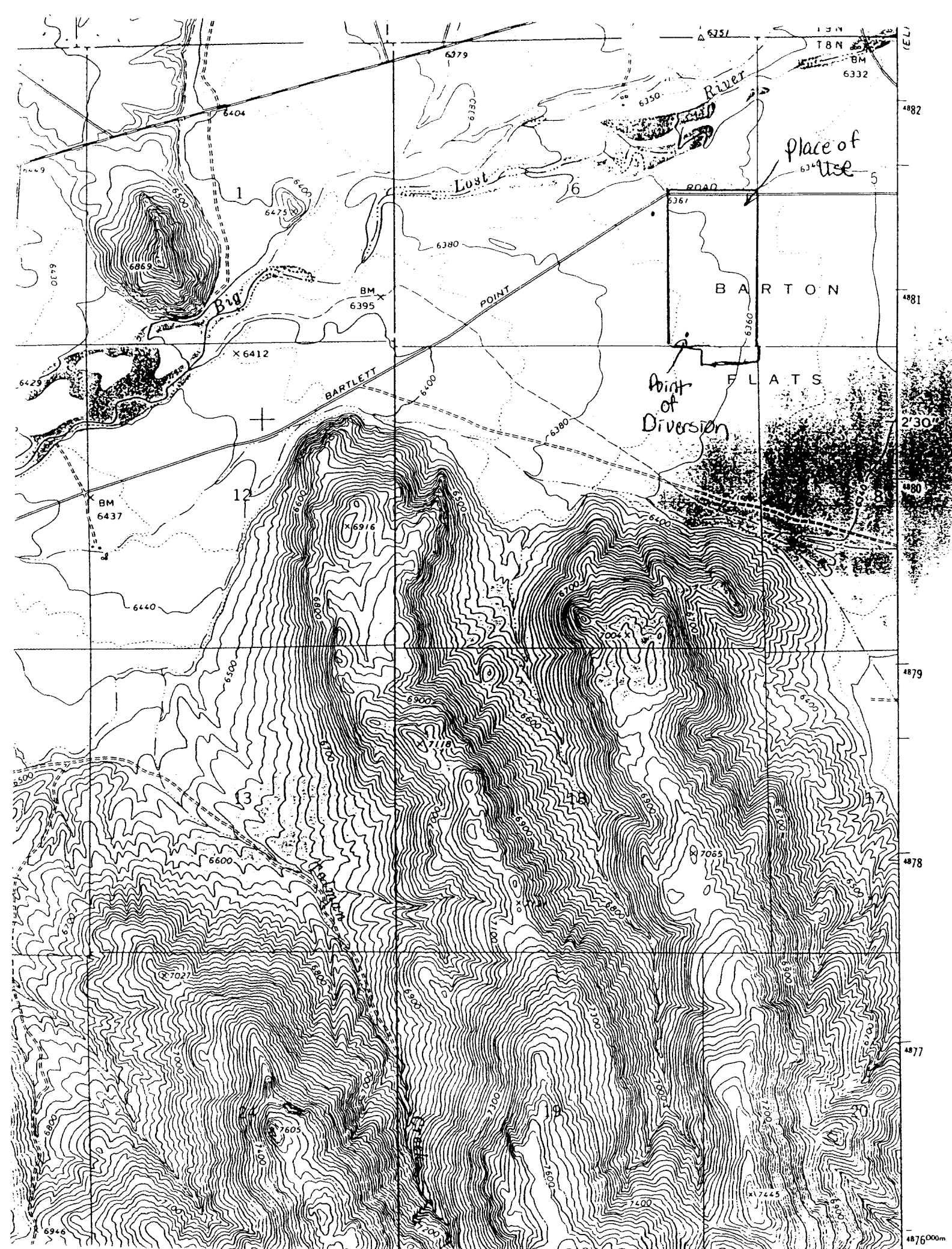
SCANNED

08 09 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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

Please see Exhibit A, appended hereto.



ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

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SCOTT L. CAMPBELL

July 1, 1999

James P. Speck
Speck & Aanestad
PO Box 987
Ketchum, ID 83340

Michael C. Creamer
Givens Pursley
277 North 6th Street, Suite 200
Post Office Box 2720
Boise ID 83701

Norman M. Semanko
Rosholt Robertson & Tucker
142 3rd Avenue North
Post Office Box 1906
Twin Falls ID 83303-1906

Re: L&S Partners' Application for Transfer No. 5400 (McCaleb Estates)
Water Right No. 34-04035C

Dear Counsel:

I am enclosing for your review a copy of a report regarding Groundwater Hydrology in the Upper Lost River Basin prepared by Sherl Chapman. There are two items of significance in that report. First, as you no doubt know by now, L&S Partners have filed an amended transfer application for the above-referenced water right. The point of diversion is now proposed to be transferred to the Southeast $\frac{1}{4}$ Southeast $\frac{1}{4}$, Section 6, Township 8N, Range 22E. That location is above the Mackay Reservoir, while the current point of diversion is located below the Mackay Dam and Reservoir. Additionally, the new point of diversion and place of use is several miles from your clients' properties.

The second, and perhaps more significant item to note regarding Mr. Chapman's report is that:

I believe the Department of Water Resources will treat any application for transfer to move a point of diversion from below Mackay Dam to above as a transfer within the same aquifer system. Certainly they will take into account any potential injury to other water rights as they must but it is clear to me, based on my review of the literature and my oral communications with Department hydrologists, that the potential for injury is essentially non-existent.

Letter to Counsel

July 1, 1999

Page 2

I would ask that you carefully consider Mr. Chapman's report and any effect it may have on the above-referenced transfer application. Please advise me of your clients' positions on this revised transfer as soon as possible. I look forward to a speedy and satisfactory resolution to this matter.

Very truly yours,

ELAM & BURKE
A Professional Association


Scott L. Campbell

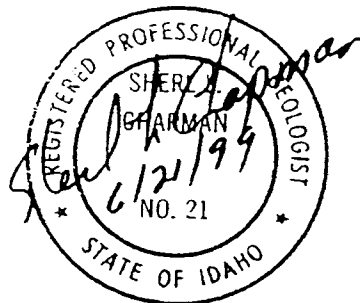
SLC:thm G:\Thm\WPDATA\3524\00149-counsel.wpd

cc: clients

Sherl L. Chapman Consulting, Inc.

JUN 26 1999

410 S. Orchard, Suite 144 - Boise, Idaho 83725 / Phone (208) 344-0090
Fax (208) 344-2744 / Email chapmaninc@rmci.net



TO: Mr. Steve Aslett

FROM: Sherl L. Chapman, President

DATE: June 21, 1999

SUBJECT: GROUND WATER HYDROLOGY - UPPER LOST RIVER BASIN

Mr. Steve Aslett is proposing a change in point of diversion for a well located in the SWNE, Sec. 34, T7N, R24E below Mackay Dam and Reservoir to a point in SESE, Sec. 6, T8N, R22E above Mackay Reservoir for irrigation. A primary question that must be answered to satisfy both the Department of Water Resources and those concerned about impacts to the ground water system is whether or not there will be any change in the overall impact to the ground water system in the Big Lost River drainage and more specifically if there will be an impact to water rights. I was requested to conduct a brief investigation to determine whether or not these concerns could be addressed with data or reports that currently exist. In order to accomplish the objective, records of the Idaho Department of Water Resources, the U.S. Geological Survey and my private files were researched. The results of this reconnaissance indicated that there are three (3) primary sources of information available that help to assess the probability of impact.

The first is a modeling project conducted by Ms. Sally Goodell, formerly of the U.S. Geological Survey. Ms. Goodell conducted a detailed analysis of the ground water and surface water systems from Mackay Dam south in the Big Lost River basin. Ms. Goodell spent approximately two (2) years developing the model, which resulted in a report that is yet unpublished by the U.S. Geological Survey. Pertinent information in the report relates to the question of hydrologic continuity between the aquifers north of Mackay Dam and Reservoir and those south. Ms. Goodell's study indicated that there had to be hydraulic continuity between the two systems since there was a ground water component entering the modeled area below Mackay Dam. This does not appear to be verified with field measurements but it is the only way the model was able to replicate what was happening below the dam.

The second source of information is a memorandum dated July 31, 1997 from Shane Bendixsen to Matt Howard relating to Cedar and Rock Creek drainages in the Big Lost River basin. The primary question that needed to be addressed in Mr. Bendixsen's report was whether or not there was hydraulic continuity throughout the Big Lost River basin and whether or not cessation of diversions above Mackay Reservoir would impact

Mr. Steve Aslett

June 21, 1999

Page 2

diversions below Mackay Reservoir. He indicates in his memo that surface waters from the intermittent streams above Mackay Reservoir enter the ground water system or is consumptively used for irrigation and that all water from intermittent streams in the Thousand Springs area leaves as ground water and is tributary to the Big Lost River. He does state clearly that "in conclusion, data are not available to precisely predict what measurable impact ceasing the diversions of Rock and Cedar Creek will be to natural available flow below Mackay Reservoir. Any reasonable estimate would have to involve a large data collection effort followed by some type of numeric modeling. Even then the results would be inconclusive." Since the ground and surface waters are interconnected in the Big Lost River basin this conclusion may be applied to the ground water system and impacts of diversions above and below Mackay Reservoir as well. Mr. Bendixsen in oral communication indicated that he believes the Big Lost ground water system is hydraulically connected throughout.

The most comprehensive report prepared for the Big Lost River basin is titled "Water Resources in the Big Lost River Basin - South/Central Idaho" by E. G. Crosthwaite, C. A. Thomas, and K. L. Dyer which was published in 1970 by the U.S. Geological Survey. This report entailed several years of field data collection effort, seismic and gravity geophysical surveys, pumping well tests and surface water measurements. One of the primary questions the authors attempted to answer was whether or not the ground and surface water are interrelated and whether or not there was hydraulic continuity between the upper and lower portions of the Big Lost River basin. The authors found that the valley fill, consisting of sand, gravel, silt and clay, known as alluvium, is on the order of 2,000-3,000 feet in thickness above Mackay Reservoir and ranges from about 5,000 feet in thickness at Mackay to approximately 2,500 feet in thickness near the mouth of the valley. They found that the alluvium thinned considerably at the Mackay narrows near Mackay Dam but is still approximately 115 feet thick, more than enough to convey significant quantities of ground water. Additionally, the authors concluded that "surface and ground water are so closely related that neither can be considered as a separate source of supply. The river alternately loses water to and gains water from the alluvial deposits in the main valley. These deposits also serve as conduits through which large amounts of water move down valley and into the Snake Plain Aquifer." (emphasis added)

The authors found that groundwater occurs primarily under water table conditions in the valley. They also found that the water table typically was within a few feet of land surface and essentially uninterrupted from the upper portion of the valley to the mouth of the basin. It is important to note that ground water under water table

Mr. Steve Aslett
June 21, 1999
Page 3

conditions typically is less responsive to stress and the impacts of pumping do not travel very far in a permeable aquifer such as that that exists in the Big Lost River basin. In fact, the authors of the report conclude that "the amount of depletion of the water resource caused by pumping is so small when compared to the total water supply that it is impractical to compute stream flow depletion." This statement can also be applied to impacts on the ground water system because of the overall water supply and the limited amount of pumping, particularly in the upper basin.

Another factor that needs to be taken into account is the consumptive irrigation requirement of crops. When water is pumped from an aquifer and applied to cropland a portion of the water is consumed or depleted from the hydrologic system while the balance either runs off as overland flow or percolates back to the ground water system. In this area of the Big Lost River basin overland runoff is minimal because of the porous character of the substrate and therefore it is expected that water pumped and applied to cropland in excess of the consumptive irrigation requirement will percolate back to the ground water system near the area from which it was pumped. In this area of the Big Lost River basin the consumptive irrigation requirement is 1.2 acre feet per acre, a relatively small amount.

In summary, the hydrologists employed by the Idaho Department of Water Resources and the authors of the U.S. Geological Survey reports conclude that there is hydraulic continuity between the aquifers above and below Mackay Dam. The alluvium is at least 115 feet thick at its thinnest point and it appears that the ground water surface is at or near land surface throughout the entire basin. The authors of the 1970 U.S.G.S. report conclude that this alluvium acts as a "conduit" to convey water from the upper portion of the basin to its mouth where it enters the Snake Plain Aquifer. For these reasons I believe the Department of Water Resources would treat any application for transfer to move a point of diversion from below Mackay Dam to above as a transfer within the same aquifer system. Certainly they will take into account any potential injury to other water rights as they must but it is clear to me, based on my review of the literature and my oral communications with Department hydrologists, that the potential for injury is essentially non-existent.

If there are any questions regarding this report or additional information is required, please contact Sherl L. Chapman.