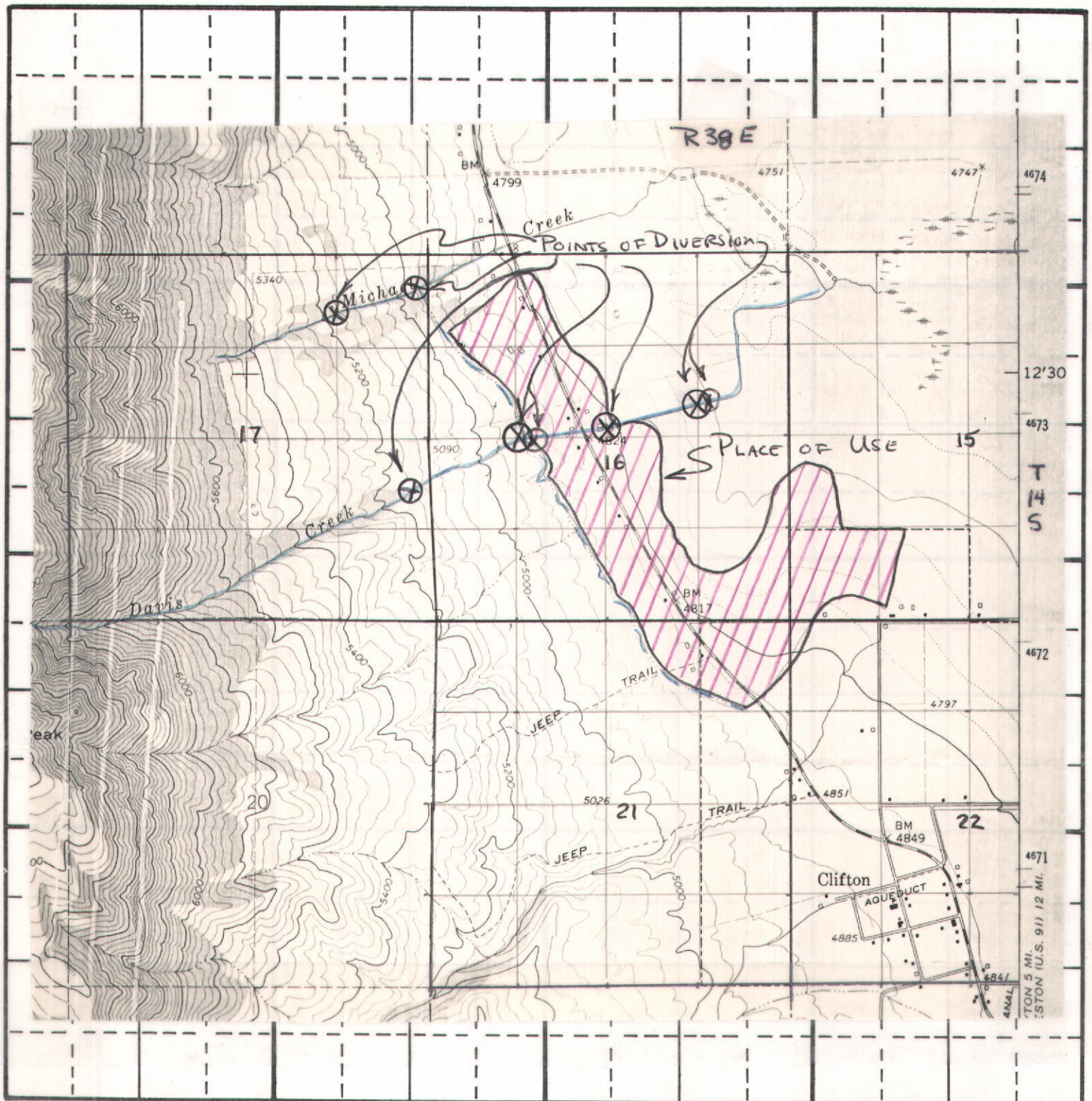


c. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	15									17	33	8						58
		16			6		12	18	12	30	24			6	10	24	24	34	200
		21	21	15															36
		22						6											6

Total number of acres to be irrigated 300

4. Describe any other water rights used for the same purpose as described above. _____
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

MICROFILMED

Transfer No. 11-0882Water Right No. 3023

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

APPROVED

Name of applicant Rushville Irrigation Company Phone 747-3491
Post Office address Clifton, ID 83228

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 11-0882 Decreed to Rushville Irrigation Company
(Name)
in case of Utah Power & Light Co. vs Last Chance Canal Co. et al
dated in 7/14/1920 in U.S. Judicial Court county of Eastern Division
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

3. Source of water Clifton Creek tributary to _____4. Date of priority May 1, 1869

5. Water is used for the following purposes:

amount 6.0cfs for Irrigation purposes from 4-20 to 9-30
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 6.0 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is _____ 1/4 of _____ 1/4 of Section 16
Township 14S Range 39E, B.M., in Franklin County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	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	
<u>14S</u>	<u>39E</u>	<u>15</u>																	
		<u>16</u>																	
		<u>21</u>	ACRES NOT SPECIFIED BY QUARTER-QUARTER SECTION																
		<u>22</u>																	

Total number of acres to be irrigated 3009. Describe any other water rights used for the same purpose as described above None

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? _____ If yes, describe in item D, REMARKS.

omit part B).

a. _____ cubic feet per second
&/or
b. _____ acre feet per annum

b. _____ acre feet per annum

1/4 _____ 1/4, Section

County

Additional points

3. Place of use:

[illegible]

Total number of acres to be irrigated

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

a. Amount of water to be diverted 6.0 c.f.s. &/or acre feet

acre feet

0.

c.f.s. &/or

b. Description of diverting works Division Dams to Ditches.

c. Describe the reasons for the proposed changes _____
Correct source and range and to

Describe the reasons for the proposed changes

Correct source

specify the place of use.

2. Change in point of diversion

NE Point of diversion

Range 38E

Franklin

County

MS 1/4

1/4, Section

16

Township

145

~~Additional points NMSW, SENW, SWNE, SENE, Sec. 16; NESE Sec. 17,~~

(Davis Creek Diversion), NENE, NWNE, Sec. 17 (Michael Creek

Diverston) T. 14, R. 38E

3. Change in place of use NO CHANGE

a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

right which limit your authority to make the proposed change? Yes _____ No X _____. If yes, provide

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

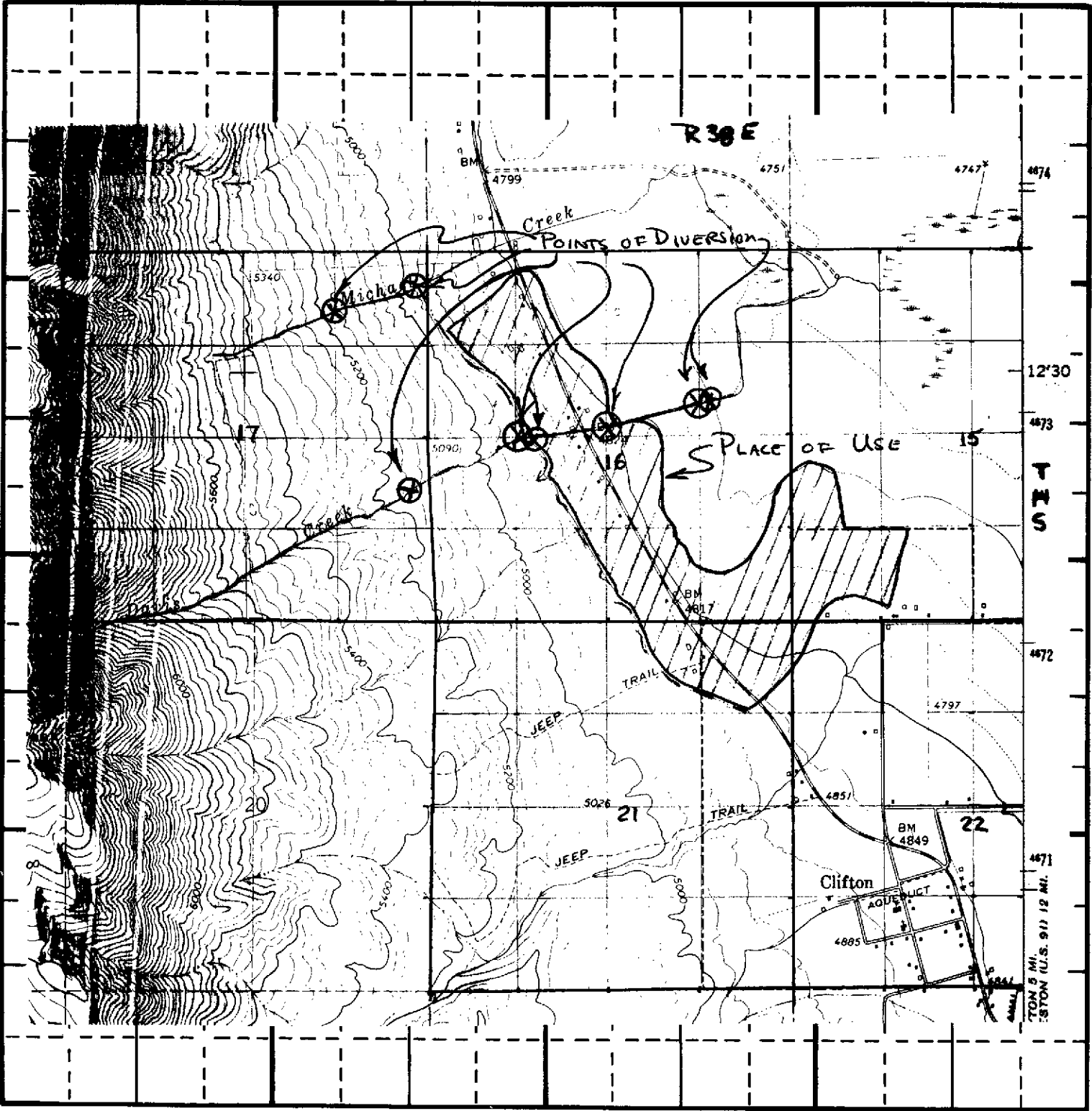
NO AFFECT PLACE OF USE LISTED HAS HISTORICALLY BEEN IRRIGATED.

c. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	15										17	33	8					58
		16			6		12	18	12	30	24			6	10	24	24	34	200
		21	21	15															36
		22						6											6

Total number of acres to be irrigated 300

4. Describe any other water rights used for the same purpose as described above. _____
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

This transfer is to correct Decree which listed the source and range in-
correctly. Actual place of use and points of diversions listed in this
transfer have historically been irrigated, with source being Davis Creek
and Michael Creek.

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 willfull misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 12th day of March, 1984
Ernest Burkhardt
Secretary (Signature of Applicant)

Charles Wilkey
(Notary Public)

My commission expires 6-15-85

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 11-0882

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

1. Measuring devices and lockable controlling works of a type acceptable to the
Department shall be permanently installed and maintained as part of the diverting
works.
2. Use of water under this right is subject to control by the watermaster
of State Water District No. 11, Bear River.

Witness my hand this 13th day of July, 1984

D. Allen Sauter
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Asst. KCM JK
Received by JK
Prelim. check by JK
Date 3-27-84 Fee \$50.00
11-2-83
Protest filed by Wyn Davis
Date 3-27-84
Copies of protest forwarded by Wyn Davis
Hearing held by Wyn Davis
Date 3-27-84
Recommended for approval
by Wyn Davis
denial

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS *
STEVEN R. FULLER **

* ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
** ALSO, MEMBER OF UTAH BAR

May 23, 1984

TELEPHONE
(208) 852-2680

RECEIVED

MAY 24 1984

Department of Water Resources
Eastern District Office

Mr. Ernest Carlsen
Assistant Regional Supervisor
Idaho Department of Water Resources
150 Shoup
Idaho Falls, ID 83402

Re: Protest of Lynn Davis to Application for Transfer
No. 11-0882 -- Rushville Irrigation
Our File No. 2121.1C

Dear Mr. Carlsen:

From your letter and the recent publications in our local newspaper, I understand that an error was made in the previous notice for Application for Transfer by Rushville Irrigation Company. Since Clifton Creek is not the source of water for the diversion requested by Rushville Irrigation Company, my client, Lynn Davis, has no objection to the proposed transfer. Therefore, Mr. Davis has authorized me to withdraw his protest to the application of transfer No. 11-0882 by Rushville Irrigation Company.

Yours very truly,



STEVEN R. FULLER
Attorney at Law

SRF/cr

RECEIVED

LAW OFFICES

J.D. WILLIAMS

ATTORNEY AND COUNSELOR AT LAW

24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83443

(208) 852-2680

APR 30 1984

Department of Water Resources
Eastern District Office

April 27, 1984

To: Idaho Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83401

Please note:

This form letter is used to expedite communications. You need direct your attention **only** to the items marked.

Re: Water Protest of Lynn Davis
Our File No. 376.5B

_____ Enclosed is information/pleadings relating to the above matter.

_____ For your information.

☒ Please review and file in your records.

_____ Please record in the county records and return.

_____ Please file in the court record of the above case.

_____ Please review and call us to discuss over the telephone.

_____ Please sign and return _____ all but one copy.
_____ all copies.

_____ Enclosed is the information you requested.

Enclosures:

Protest of Lynn Davis to Change Point of Diversion

RECEIVED

BEFORE THE DEPARTMENT OF WATER RESOURCES APR 30 1984

OF THE
STATE OF IDAHO

Department of Water Resources
Eastern District Office

IN THE MATTER OF THE APPLICATION	}	
OF RUSHVILLE IRRIGATION COMPANY,	}	PROTEST OF LYNN DAVIS
CLIFTON, IDAHO, APPLICATION NO.	}	TO
11-0882 TO CHANGE POINT OF	}	Application No. 11-0882
DIVERSION OF THE WATERS OF	}	To Change Point of Diversion
CLIFTON CREEK.	}	

COMES NOW, LYNN DAVIS, by and through his attorney, STEVEN R. FULLER of the Law Firm of J. D. Williams, whose address is Clifton, Idaho; and pursuant to the provisions of Idaho Law, and any and all other pertinent statutes and rules of the Idaho Department of Water Resources and does hereby protest the granting of an Application No. 11-0882, of RUSHVILL IRRIGATION COMPANY, Clifton, Idaho, to change the point of diversion of the waters of Clifton Creek and as reasons and grounds for such protest he alleges as follows:

1. Protestor applied to the Department of Water Resources for a permit (Permit No. 13-7233) to appropriate 2.40 cubic feet per second of undecreed water from Loafer Creek for the irrigation of 120 acres. Said application was filed in compliance with all appropriate sections of the Idaho Code. Said permit was granted subject to certain conditions set forth in the Memorandum Decision and Order of the Department of Water Resources dated May 15, 1979, a copy of which said Decision and Order is attached hereto and incorporated as part hereof.

2. The Order accompanying the Memorandum Decision will be or has been complied with.

3. The waters of Loafer Creek are currently being diverted into Clifton Creek and subsequently diverted and used by applicant, RUSHVILLE IRRIGATION COMPANY.

4. The application of RUSHVILL IRRIGATION COMPANY proposes to divert waters of Clifton Creek to be used to irrigate 300 acres in the Clifton area. The proposed use will increase

consumption of the waters of Loafer and Clifton Creeks and
thereby prejudice and impair the water rights already granted to
Protestor.

DATED This 27th day of April, 1984.


STEVEN R. FULLER
Attorney for Lynn Davis

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT
NO. 13-7233 IN THE NAME OF LYNN M. DAVIS

MEMORANDUM DECISION

AND ORDER

On April 24, 1978, Lynn M. Davis of Clifton, Idaho applied to the Department of Water Resources for a permit to appropriate 2.40 cubic feet per second of water from Loafer Creek, a tributary of Deep Creek, at a point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, Twp. 14S, Rge. 38E B.M., Franklin County, for the irrigation of 120 acres of land.

Notice of this application was published in the Preston Citizen on May 4, and May 11, 1978, and subsequently, was protested by Howard Henderson, Carl A. Mortensen, Leonard Povey, Carl Sohn, and Ronald J. Lang on behalf of the Clifton Irrigation Company. Additional protests were later received from Karl D. Reeder, Jack J. Wood, and J. Myron Moyle.

On November 15, 1978, a conference was held in Preston, Idaho pursuant to Section 42-203 of the Idaho Code and the Rules of Practice and Procedure of the Department. The applicant was present and represented himself. Protestants Howard Henderson, Leonard Povey, and Carl Sohn represented the Clifton Irrigation Company. J. Myron Moyle appeared on behalf of the City of Clifton. Karl Reeder was present and represented himself.

The protestants expressed two main objections, that can be considered against the approval of this application.

First, The Clifton Irrigation Company has diverted water from Loafer Creek for the irrigation of land under their system. They are in the process of installing a gravity sprinkler system which will irrigate about 700 acres of land, a portion of which will be within the boundary of the City of Clifton. When this system is complete all of the flow of Loafer Creek will be required leaving an inadequate water supply for the applicant's proposed project, and increasing the possibility of his interfering with Clifton Irrigation Company's use of the water.

The second objection is that this permit will interfere with the gravity irrigation project proposed by the irrigation company to provide water for irrigation of lands within the City of Clifton, designed to reduce the demand on the city's existing domestic system. If the applicant's development limits the ability of the residents of Clifton to obtain water from the Clifton Irrigation Company, this application would be in conflict with the public interest of the residents of Clifton.

A third concern of the protestant is the increase in the cost of water distribution that would occur due to the difficulty in reaching the proposed point of diversion.

The applicant argued that there had traditionally been water in Loafer Creek in excess of that diverted by the irrigation company especially in the early part of the irrigation season. His application was made to obtain a right to use this water on 120 acres of pasture.

After considering all the information presented at the conference and reviewing the pertinent material in the Department's files, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, Analysis, and Order:

FINDINGS OF FACT

1) In the case of Utah Power and Light -vs- Last Chance Canal Company et. al. dated July 14, 1920, the protestant, Clifton Irrigation Company, was decreed the right to beneficial use of fourteen (14) cubic feet per second from Clifton Creek with a priority of May 1, 1869 for the irrigation of 707 acres and that right is identified by number 11-0081 in the records of the Department of Water Resources.

2) The point of diversion for the Clifton Irrigation Company, however, has for many years been on Loafer Creek at a point approximately two miles below that proposed by the applicant. The change in point of diversion was made by the Clifton Irrigation Company without filing a transfer with the Department of Water Resources, therefore, there are no water rights on Loafer Creek in the name of Clifton Irrigation Company indicated in the records of the Department.

3) Loafer Creek is not a tributary of Clifton Creek but both creeks are tributary to Deep Creek.

4) During the last four or five years about 450 acres of land to which water was decreed has been irrigated with water from alternate sources, Twin Lakes and groundwater. Therefore, less water has been diverted from Loafer Creek by Clifton Irrigation Company than that historically diverted.

5) There is water flowing past the existing diversion works of the company until June 1st in most years.

CONCLUSIONS OF LAW

1) Clifton Irrigation Company has a water right for the use of Loafer Creek either because they transferred the right decreed to them from Clifton Creek or because they have diverted and use for a beneficial purpose the water of Loafer Creek prior to May 20, 1971, the last day a water right could be initiated without obtaining a permit.

2) There is water available in Loafer Creek a sufficient amount of the time in excess of what has been normally diverted for irrigation by the Clifton Irrigation Company.

3) The proposed appropriation will not interfere with the use of water within the city for the land that has an earlier water right.

ANALYSIS

It is an established policy that available water should be put to a beneficial use. Therefore, the water from Loafer Creek that has not been diverted by the company for the last four or five years may be appropriated and beneficially used until the company resumes their use. There is no need to wait until the statutory five years forfeiture period elapses before water is available but water is available whenever it is not used by prior right holders.

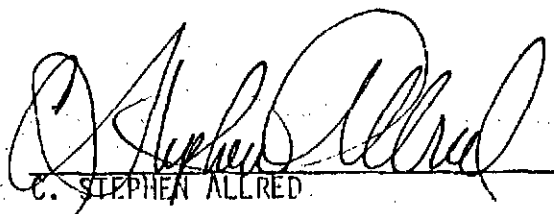
The protestant is also concerned about the increased cost of water distribution that will occur because of the difficulty in reaching the new point of diversion. This is a matter outside the statutory authority of the Director; and, therefore, cannot be considered in his decision of this application for permit.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7233 is APPROVED subject to the following conditions:

- 1) This permit is subject to all prior water rights.
- 2) A measuring device of a type approved by this Department shall be installed and maintained as part of the diverting works.
- 3) Use of water under this permit is subject to control by the watermaster of State Water District No. 11, Bear River.
- 4) Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 1984.

Dated this 15 day of May, 1979.


C. STEPHEN ALLRED
Director

#875

MAY 10 1984

No 2095

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

ss.

County of Franklin

JUN 6 1984

Department of Water Resources
Eastern District Office

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

..... May 3, 1984., and endingwith the issue of May 10, 1984..Fee \$ 3063Subscribed and sworn to before me this 31st dayof May, 1984..

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1986..NOTICE OF PROPOSED CHANGE
OF WATER RIGHT

No. 11-0882

Notice is hereby given that Rushville Irrigation Co., Clifton, Idaho, has applied to the Department of Water Resources for a change in the point of diversion of the water of Clifton Creek. The right sought to be changed is evidenced by decree to Rushville Irrigation Co. in case of Utah Power and Light Co. vs. Last Chance Canal Co., et al, dated July 14, 1920 in U.S. District Court, Eastern Division, and is recorded as follows:

AMOUNT: 6.00 cfs

PRIORITY: 5/01/1869

POINT OF DIVERSION: Sec. 16, T. 14S, R. 38E, B.M. Franklin County

The water is used to irrigate 300 acres within Sec. 15, 16, 21, 22, T. 14S, R. 38E, B.M.

TO BE CHANGED AS FOLLOWS

The source of water is being changed from Clifton Creek to Davis and Michael Creeks. Water from Davis Creek will be diverted in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 16, and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 14S, R. 38E; and water from Michael Creek will be diverted in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 14S, R. 38E, B.M., all in Franklin County. The diversions from both creeks will be used to irrigate 300 acres within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 16; N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 22, T. 14S, R. 38E, B.M.

Any protests to the above named proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 21, 1984.

A. KENNETH DUNN
Director

Published in the Preston Citizen,
Preston, Idaho 5/3 & 5/10/84.

Legal No. 2095 -49L- Published
May 3, 10, 1984.

#875 APR 15 1984

No 2081

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Warren Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 3 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

April 12, 1984, and ending
with the issue of April 26, 1984.

Fee \$ 36.75

Subscribed and sworn to before me this 30th day
of April, 1984.
Ken O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1986.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT No. 11-0882

Notice is hereby given that Rushville Irrigation Co., Clifton, Idaho, has applied to the Dept. of Water Resources for a change in the point of diversion of the waters of Clifton Creek. The right sought to be changed is evidenced by Decree No. 11-0882 to Rushville Irrigation Co. in case of Utah Power and Light Co. vs. Last Chance Canal Co. et al dated in July 14, 1920 in U.S. District Court, Eastern Division, and is recorded as follows:

AMOUNT: 6.00 cfs

PRIORITY: 5/1/1869

POINT OF DIVERSION: Sec. 16, T. 14S, R. 39E, B.M. Franklin County;

The water is used to irrigate 300 acres within Sec. 15, 16, 21, 22, T. 14S, R. 39E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 16, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17, T. 14S, R. 38E, B.M. Franklin County and used to irrigate 300 acres within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22, T. 14S, R. 39E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83401, on or before

April 30, 1984.

A. KENNETH DUNN,
Director

Published in the Preston Citizen on
4/12 & 4/19/84.

Legal No. 2081 -42L- Published
April 12, 19, 1984.

RECEIVED

MAY 2 1984

Department of Water Resources
Eastern District Office

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

the irrigation of 707 acres in Sections 22 and 27, said Township and Range.

11 0882

501. *Rushville Irrigation Company:*
1869—May 1 6 c.f.s.

T. #3023

To be diverted from said Clifton Creek in Section 16, Township 14 South, Range 39 East, for the irrigation of 300 acres in Sections 15, 16, 21 and 22, said Township and Range.

FIVE MILE CREEK.

11 0883

502. *Five Mile Irrigation Company:*
1880—May 2 8 c.f.s.

To be diverted from said Five Mile Creek in the Southwest quarter of Section 15, Township 15 South, Range 38 East, B.M., for the irrigation of 400 acres in Sections 11, 13, 14, 22, 23 and 27, said Township and Range.

11 0884

503. *Loren Mendenhall, Willis Mendenhall and Jacob Peterson:*
1880—May 1 0.5 c.f.s.

To be diverted and used by the above named parties for the irrigation of their lands hereinafter described near Deep Creek in the following proportions:
One-half to Willis Mendenhall,
One-fourth to Jacob Peterson,
One-fourth to Loren Mendenhall.

DEEP CREEK AND TRIBUTARIES.

11 0885

504. *Ira R. Steed, substituted for A. D. Henderson:*
1881—May 1 3.0 c.f.s.

To be diverted from Sperry Hollow and Henderson Spring tributary to said Deep Creek at a point two miles West and two miles South of the Village of Clifton, Franklin County, Idaho, for the irrigation of 160 acres in the Southwest quarter of Section 35, Township 14 South, Range 38 East.

11 0886

505. *Mrs. Sarah Hess:*
1881—May 1 3.0 c.f.s.

To be diverted from North Canyon Hollow, a tributary of said Deep Creek, at a point two miles West and two miles South of the Village of Clifton, Franklin County, Idaho, for the irrigation of 160 acres in Section 34 and 35, Township 14 South, Range 38 East.

11 0887

506. *Loren Mendenhall, Willis Mendenhall and Jacob Peterson:*
1882—June 1 8.0 c.f.s.

To be diverted from said Deep Creek through the West Cache Supplemental Canal diverting therefrom in the South-

RECORDED

July 18, 1984

RE: Transfer of Water Right No. 11-0882

Rushville Irrigation Co.
Clifton,
Idaho 83228

Gentlemen:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 3023). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosure

MILB-1000

June 4, 1984

RE: Application for Transfer No. 11-0882 RUSHVILLE IRRIGATION

Lynn Davis
Clifton,
Idaho 83228

Dear Mr. Davis:

This is to acknowledge receipt of your withdrawal of protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: Steven R. Fuller

MICROFILMED

June 4, 1984

RE: Application for Transfer No. 11-0882

Rushville Irrigation Company
Clifton,
Idaho 83228

Gentlemen:

This is to advise you that Steven R. Fuller, Attorney at Law, in behalf of Lynn Davis has withdrawn their protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter and has resumed the processing of your application.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

MAIL ROOM

May 8, 1984

RE: Application for Transfer No. 11-0882 ~~SHENKLE~~ IRRIGATION

Lynn Davis
Clifton,
Idaho 83228

Dear Mr. Davis:

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

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:ow

cc: IDWR - State Office
Steven R. Fuller

May 8, 1984

RE: Application for Transfer No. 11-0882

Rushville Irrigation Company
Clifton,
Idaho 83228

Gentlemen:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

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

If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

May 4, 1984

RE: Application for Transfer No. 11-0882-RUSHVILLE IRRIGATION

Steven R. Fuller
Attorney at Law
P.O. Box 191
Preston, ID 83263

Dear Mr. Fuller:

A review of the protest your office submitted on behalf of Mr. Lynn Davis indicates his primary concern is that Rushville Irrigation Company will be diverting water from Clifton Creek.

Notice of the company's application for transfer did identify Clifton Creek as the source of water when first published in the Preston Citizen. However, the company's intent is to change their source of water from Clifton Creek to Davis and Michael Creeks. This would be a correction of their decreed water right since they have never diverted water from Clifton Creek. Clarification of this change is being addressed in a second notice scheduled for publication in the Preston Citizen on May 3 and 10, 1984.

Because your client would likely be interested in this change, we have also enclosed a copy of the map taken from the company's application. This map shows the points of diversion that will be used by the company to divert water from Davis and Michael Creeks.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

MICROFILMED

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
NO. 11-0882

Notice is hereby given that Rushville Irrigation Co., Clifton, Idaho, has applied to the Department of Water Resources for a change in the point of diversion of the water of Clifton Creek. The right sought to be changed is evidenced by decree to Rushville Irrigation Co. in case of Utah Power & Light Co. vs Last Chance Canal Co. et al, dated July 14, 1920 in U.S. District Court, Eastern Division, and is recorded as follows:

AMOUNT: 6.00 cfs PRIORITY: 5/01/1869

POINT OF DIVERSION: Sec. 16, T. 14S, R. 39E, B.M.
Franklin County.

The water is used to irrigate 300 acres within Sec. 15, 16, 21, 22, T. 14S, R. 39E, B.M.

TO BE CHANGED AS FOLLOWS

The source of water is being changed from Clifton Creek to Davis and Michael Creeks. Water from Davis Creek will be diverted in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 16, and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 14S, R. 38E; and water from Michael Creek will be diverted in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 14S, R. 38E, B.M., all in Franklin County. The diversions from both creeks will be used to irrigate 300 acres within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 16; N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 22, T. 14S, R. 38E, B.M.

Any protests to the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 21, 1984.

A. KENNETH DUNN
Director

Published in the Preston Citizen, Preston, Idaho 5/3 & 5/10/84.

MICHAEL

Prophet
Phone
4-30-84
fk

APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 11-0882

RECEIVED

APR 10 1984

Department of Water Resources
Eastern District Office

WATER DISTRICT 11

WATERMASTER Russell D. Stoker

DATE: April 9, 1984

COMMENTS: _____

X I do endorse approval of this change.

 I do not endorse approval of this change.

I recommend the following conditions of approval:

Since this change is to correct errors and omissions in the Dietrich Decree Right No. 501, I think we should make it completely correct this time which will require the following changes in the Rushville Irrigation Co. application for transfer:

- 1 - On page 2 C-2 they show an additional point of diversion as "NE SE Sec. 17" - on their map they show no diversions from Davis Creek in Sec. 17.
- 2 - On page 3 - the lands to be irrigated table at the top shows "R39E", this should be R38E (the object of their transfer)
- 3 - on page 3 - their plat shows "R39E" this should also be R38E (again the object of their transfer).
- 4 - at the top of page 4 in their remarks if they want to completely clear things up they should add after Michael Creek " which are tributary to Deep Creek and thereby Bear River.

Russell D. Stoker
Watermaster

ENC.

April 5, 1984

RE: Application for Transfer No. 11-0882 RUSHVILLE IRRIG. CO.

Russell Stoker, Watermaster
Water District No. 11
279 East Third North
Soda Springs, ID 83276

Dear Mr. Stoker:

Please find enclosed a copy of the above referenced application(s) and water recommendation form(s). Please review the application(s) and complete the form(s), returning it to this office on or before April 30, 1984.

Thank you for your cooperation in this matter.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:CW

Enclosure

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 11-0882

Notice is hereby given that Rushville Irrigation Co., Clifton, Idaho, has applied to the Dept. of Water Resources for a change in the point of diversion of the waters of Clifton Creek. The right sought to be changed is evidenced by Decree No. 11-0882 to Rushville Irrigation Co. in case of Utah Power & Light Co. vs. Last Chance Canal Co. ^(f.c.) dated in July 14, 1920 in U.S. District Court, Eastern Division, and is recorded as follows:

AMOUNT: 6.0 cfs PRIORITY: 5/1/1869

POINT OF DIVERSION: Sec. 16, T. 14S, R. 39E,
B.M. Franklin County;

The water is used to irrigate 300 acres within Sec. 15, 16, 21, 22, T. 14S, R. 39E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 16, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17, T. 14S, R. 38E, B.M. Franklin County and used to irrigate 300 acres within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22, T. 14S, R. ³⁸~~39~~E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources 150 Shoup Ave. Suite 15, Idaho Falls, Idaho, 83401, on or before ~~April 30, 1984.~~

A. KENNETH DUNN

Director

Published in the Preston Citizen on 4/11 & 4/18/84.

*Called & had
new add.
not with
change.
indicated.
CW
4-11-84*

FILED

*Proofed by phone
4-9-84
JK.*