

No Color
Documents
In File

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 Theo L. Smith

Phone 852-1938

Post office address RFD #2, Preston, ID 83263

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
- a. Decree to D. P. Evans #483
- (Name)
- in case of Utah Power & Light Co. vs Last Chance Canal Co.
- dated July 14, 1920 in District Court county of Franklin
- (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
- Deeded from D. P. Evans to Wayne S. Evans and then to Theo L. Smith.
3. Source of water Station Creek and springs tributary to Bear River
4. Date of priority May 1, 1882
5. Water is used for the following purposes:
- amount 0.40 cfs for irrigation purposes from April 20 to September 30
- amount for purposes from to
- amount for purposes from to
- (month/day — both dates inclusive)
6. Total amount of water under right:
- a. 0.40 cubic feet per second
- &/or
- b. acre feet per annum
7. Location of original point of diversion is * ¼ of ¼ of Section 36
- Township 14S Range 40E, B.M., in Franklin County
- Additional points of diversion, if any
8. Lands irrigated or place of use:

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	40E	21															20		20

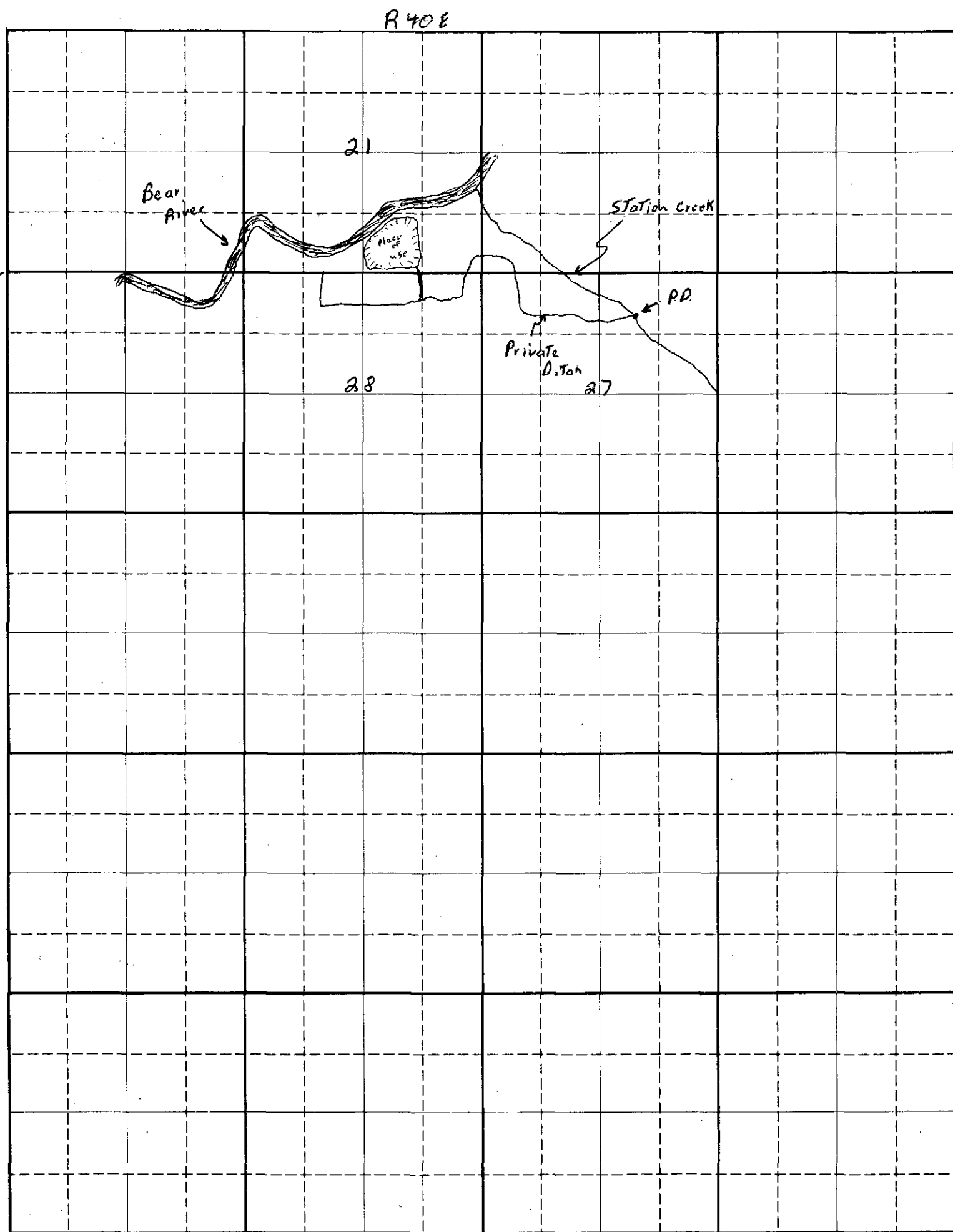
Total number of acres to be irrigated 20

Describe any other water rights used for the same purposes as described above

* does not state in decree.

Total number of acres to be irrigated

3. 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.

RECEIVED
JAN 10 1977

I hereby assert that no one will be injured by such change and 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.

Subscribed and sworn to before me this 25th day of January, 1980.

(Signature of applicant)

Alfred J. Smith

(Notary public)

Archie K. Smith

My commission expires 2-16-83.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 11-0857

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

- (1) A measuring device 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 29th day of

May

, 19 81.

Norman C. Young
Administrator, Resources Admin. Div.

FOR DEPARTMENT USE ONLY

Received by <i>ew</i>	Date <i>1/28/80</i>	Prelim. check by <i>ew</i>	Fee <i>\$35.00</i>	Received by <i>ew</i>	Date <i>1/29/80 #15548</i>
Published in	Preston Citizen	Pub. dates	2/7 & 2/14/80	Watermaster recommendation requested on	rec'd. 2-7-1980.
Copies of protest forwarded by		Hearing held by		Recommended for	approval
by <i>Ken Foster</i>		Date		denial	
Protest filed by <i>Jimmie B. & Redman, Olsen</i>					

March 18, 1980

We, the undersigned, have agreed that Delmer Olson and family may extend the drain to the three ~~at~~ proposed wet spots. and They would also be able to bring the water from that drainage system down to the farm for the proposed uses. This water would be brought down by a buried line. This line would be equipped with a valve at the end for the release of the water if prior water rights demand that release. This is in reference to Application for permit No. 13-7269.

The Olsons also agree to withdraw their objection to the Smiths proposal to change their point of diversion. (11-0857)

The Olsons will be allowed, with no objection from Smith and Westerberg to change their diversion point.

All water rights owned by Delmer Olson and family will be contained in the ~~root~~ line from the drainage and the existing culinary line.


Delmer L. Olson
Jeff E Olson (scribe)
Theo L Smith
David Terry Westerberg
Samuel L. Smith

Original filed in 13-7269 *pm*

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STERHEN E. MARTIN

CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

February 15, 1980

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Proposed Change of Water Right No. 11-0857

Gentlemen:

We are writing this letter on behalf of our clients, Delmer Olsen and Jimmie D. Olson of Preston, Idaho, to protest the proposed change of Water Right No. 11-0857, application for which appears to have been filed by Theo L. Smith of Preston, Idaho.

The grounds for this protest are that the water rights of the protestants will be injured by such change and that such change constitutes an enlargement in use of the original right.

Yours very truly,



Kent W. Foster

KWF:jt

RECEIVED

FEB 19 1980

Department of Water Resources
Eastern District Office

RECEIVED

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 11-0857

Notice is hereby given that Theo L. Smith, Preston, Idaho has applied to the Department of Water Resources for a change in the point of diversion of the waters of Station Creek tributary to the Bear River. The right sought to be changed is evidenced by Decreed Right No. 11-0857 in the case of Utah Power & Light Co. vs. Last Chance Canal Co. dated July 14, 1920 in District Court of Franklin County. The right sought to be changed was decreed to D. P. Evans and is recorded as follows:

AMOUNT: 0.40 cfs PRIORITY: May 1, 1882

POINT OF DIVERSION: Within Sec. 36, Twp. 14S, Rge. 40E, Franklin County.

The water is used to irrigate 20 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, Twp. 14S, Rge. 40E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, Twp. 14S, Rge. 40E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, - Idaho Falls, Idaho, 83401 on or before February 25, 1980.

C, STEPHEN ALLRED

Director

Published in the Preston Citizen on 2/7 & 2/14/1980.

RECEIVED
FEB 21 1980

DATE OF PRIORITY.	AMOUNT IN SECOND FEET	POINT OF DIVERSION AND PLACE OF USE
481. <i>Elmer Larsen and Jancus Keller:</i> 1882—May 1	0.3 c.f.s.	For the irrigation of 5 and 10 acres respectively in Section 8, Township 14 South, Range 41 East.

STATION CREEK AND SPRINGS.

11 0856	482. <i>Alfred Westerberg:</i> 1884—May 1: Apr. 20 to July 25 July 25 to Sept. 1 Sept. 1 to Sept. 30	0.62 c.f.s. 0.41 c.f.s. 0.31 c.f.s.	To be diverted from said creek and springs through a ditch diverting therefrom in Section 36, Township 14 South, Range 40 East, for the irrigation of 31 acres in said Section 36.
11 0857	483. <i>D. P. Evans:</i> 1882—May 1	0.4 c.f.s.	To be diverted from said creek and springs in Section 36, Township 14 South, Range 40 East, for the irrigation of 20 acres in the Southeast quarter of said Section 21.
	484. <i>Gustave Olsen:</i> 1898—May 1	0.06 c.f.s.	To be diverted from said springs in Section 35, Township 14 South, Range 40 East, for the irrigation of 33 acres in the Northeast quarter of said Section 36.

BEAR CREEK SPRINGS.

	485. <i>Nevada A. Larson and Martin Christensen:</i> 1888—May 1: Apr. 20 to July 25 July 25 to Sept. 1 Sept. 1 to Sept. 30	0.5 c.f.s. 0.33 c.f.s. 0.25 c.f.s.	To be diverted from said springs in Section 24, Township 14 South, Range 40 East, B.M. For the irrigation of 25 acres (two-thirds thereof to said Nevada A. Larson and one-third thereof to said Martin Christensen), in the Northwest quarter of the Northeast quarter, the South half of the Northeast quarter and the Northwest quarter of the Southeast quarter of Section 23, said Township and Range.
	486. <i>Steffen C. Christensen and Andrew Jepson:</i> 1887—May 1	0.28 c.f.s.	To be diverted from said Bear Creek Springs in Section 24, Township 14 South, Range 40 East, for the irrigation of 14 acres (7 acres to each defendant) in the said Section 24.

SPRING IN THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 40 EAST.

487. <i>Charles Berquist and Edward Berquist:</i> 1890—May 1	0.04 c.f.s.	To be diverted at the said spring for the irrigation of 2 acres in Section 26, Township 14 South, Range 40 East.
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AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co. Published 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

Feb 7, 1980, and ending

with the issue of Feb 14, 1980.

Walter Ross

Fee \$ 12.96

Subscribed and sworn to before me this 29th day of Feb, 1980.

Kim D. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1982

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 11-0857

Notice is hereby given that Theo L. Smith, Preston, Idaho has applied to the Department of Water Resources for a change in the point of diversion of the waters of Station Creek tributary to the Bear River. The right sought to be changed is evidenced by Decreed Right No. 11-0857 in the case of Utah Power and Light Co. vs. Last Chance Canal Co. dated July 14, 1920 in District Court of Franklin County. The right sought to be changed was decreed to D.P. Evans and is recorded as follows:

AMOUNT: 0.40 cfs PRIORITY: May 1, 1882

POINT OF DIVERSION: Within Sec. 36, Twp. 14S, Rge. 40E, Franklin

The water is used to irrigate 20 acres with the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, Twp. 14S, Rge. 40E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, Twp. 14S, Rge. 40E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before February 25, 1980.

C. STEPHEN ALLRED
Director

RECEIVED

MAR 5 1980

Department of Water Resources
Eastern District Office

This Indenture, made this 20th day of September in the year, A. D., one thousand nine hundred fifty five, between David H. Smith a single man of the County of Franklin, State of Idaho, party of the first part, and Theo L. Smith of the county of Franklin, State of Idaho, party of the second part,

WITNESSETH:--That the said party of the first part, for and in consideration of the sum of One and No/100 DOLLARS lawful money of the United States of America, to him in hand paid, by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents devise, release and forever quitclaim unto the said party of the second part, and to his heirs and assigns forever, all that certain lot, piece, or parcel of land, situate, lying and being in Franklin County, State of Idaho, and bounded and particularly described as follows to-wit:

The Northwest quarter of the Northwest Quarter of Section Twenty-eight, Township 14 South, Range 40 East of the Boise Meridian, lying and being on the South side of Bear River.

All of that part or portion of the Southwest Quarter of the Southwest Quarter of Section 21, Township 14 South, Range 40 East of the Boise Meridian, lying and being on the South side of Bear River.

All that part or portion of the Southwest Quarter of the Southeast Quarter and of the Southeast Quarter of the Southwest Quarter of Section Twenty-one; and of the Northwest Quarter of the Northeast Quarter and of the Northeast Quarter of the Northwest Quarter of Section Twenty-eight; all in Township 14 South, Range 40 East of the Boise Meridian, lying and being on the South side of Bear River.

All that portion of the Northeast Quarter of the Northeast Quarter of Section Twenty-nine, township fourteen South, Range 40 East of the Boise Meridian, lying and being on the South side of Bear River, except about $1\frac{1}{2}$ acres conveyed to Nelson and Meeks.

The Southeast Quarter of the Northeast Quarter, and the East half of the Southeast Quarter of Section 29; and the Northwest Quarter of the Southwest Quarter of Section 28; all in Township 14 South, Range 40 East of the Boise Meridian.

Subject to rights of the Utah Power & Light Company with reference to tracts granted it by instruments recorded in Book 14 of Deeds, Page 409 and in Book 5 of Miscellaneous page 530, all records of Franklin County, Idaho

Together with all water rights, and rights in ditches, canals and laterals, and rights of way therefor, appurtenant to said premises or used in connection therewith, including but not limited to the following: Right to the use of the waters of Station Creek and springs decreed to D. P. Evans, for use on 20 acres in the Southeast Quarter of Section 21, in the case of Utah Power & Light Company VS the Last Chance Canal Company

Also, the Southwest Quarter of the Northeast Quarter, the South Half of the Northwest Quarter, and the Northwest Quarter of the Southeast Quarter of Section 28, Township 14 South, Range 40 East of the Boise Meridian, Subject to rights of ways for canals, ditches and public roads, as same now exist over and across said tracts.

Together with all and singular the tenements, water rights, hereditaments, and appurtenances there-

unto belonging, or in any wise appertaining, and the reversion, reversions, remainder, and remainders, rents, the issues and the profits thereof;

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed in the presence of

David H. Smith

STATE OF IDAHO,

{ SS.

County of Franklin,

On this 20th day of September in the year 1955, before me, Clifford Warr a Notary Public in and for said County, personally appeared David H. Smith, a single man known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written. My commission expires Dec 10, 1956

(Seal)

Clifford Warr Notary Public
Address Preston, Idaho

STATE OF IDAHO

County of Franklin—ss.

I hereby certify that this instrument was filed for record at the request of Theo L. Smith at 1:25 P. M., September 20, 1955.

Fee \$1.75.

C. L. Swenson: Ex-Officio Recorder

By Maya Muir Deputy

D. J.

BDF

February 21, 1980

RE: Application for Transfer No. 11-0857

Mr. Theo L. Smith
RFD #2
Preston, Idaho 83263

Dear Mr. Smith:

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?

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 Region Supervisor

RDC:cw:kw

Enclosure

cc: IDWR - State Office

February 21, 1980

RE: Application for Transfer No. 11-0857 THEO L. SMITH

Delmer Olsen
Jimmie D. Olson
Preston, Idaho 83263

Gentlemen:

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

February 21, 1980

RE: Application for Transfer No. 11-0857 THEO L. SMITH

Mr. Kent W. Foster
Attorney at Law
P.O. Box 129
Idaho Falls, Idaho 83401

Dear Mr. Foster:

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Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
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WILLIAM S. HOLDEN
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STEPHEN E. MARTIN

CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO

February 15, 1980

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Proposed Change of Water Right No. 11-0857

Gentlemen:

We are writing this letter on behalf of our clients, Delmer Olsen and Jimmie D. Olson of Preston, Idaho, to protest the proposed change of Water Right No. 11-0857, application for which appears to have been filed by Theo L. Smith of Preston, Idaho.

The grounds for this protest are that the water rights of the protestants will be injured by such change and that such change constitutes an enlargement in use of the original right.

Yours very truly,



Kent W. Foster

KWF:jt

RECEIVED

FEB 19 1980

Department of Water Resources
Eastern District Office

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

Name of applicant Theo L. Smith Phone 852-1938

Post office address RFD #2, Preston, ID 83263

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
- a. Decree to D. P. Evans #483 (Name)
in case of Utah Power & Light Co. vs Last Chance Canal Co.
dated July 14, 1920 in District Court county of Franklin
(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 Deeded from D. P. Evans to Wayne S. Evans and then to Theo L. Smith.
3. Source of water Station Creek and springs tributary to Bear River
4. Date of priority May 1, 1882
5. Water is used for the following purposes:
amount 0.40 cfs for irrigation purposes from April 20 to September 30
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day – both dates inclusive)
6. Total amount of water under right: a. 0.40 cubic feet per second
&/or
b. _____ acre feet per annum
7. Location of original point of diversion is * $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section 36
Township 14S Range 40E, B.M., in Franklin County
Additional points of diversion, if any _____
8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
14S	40E	21															20		20

Total number of acres to be irrigated 20

9. Describe any other water rights used for the same purposes as described above _____

* does not state in decree.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County _____
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

1. Change in point of diversion

- a. Amount of water to be diverted 0.40 c.f.s. &/or _____ acre feet
- b. Point(s) of diversion NW ¼ NE ¼, Section 27 Township 14S
Range 40E, B.M., Franklin County _____
Additional points _____

c. Description of diverting works Parshall flume in Station Creek prior to emptying into Preston, Riverdale, Mink Creek Canal (see agreement of contract recorded May 20, 1911).

d. Describe the reasons for applying for a change in the point(s) of diversion This is the only place this water has ever been diverted. (see original diversion point dated March 10, 1882, recorded Book A, Misc. Page 162, March 16, 1882). Apparently all diversions &/or places of use on Station Creek was mistakenly described on this final decree. This is for the purpose of correction of this diversion point only.

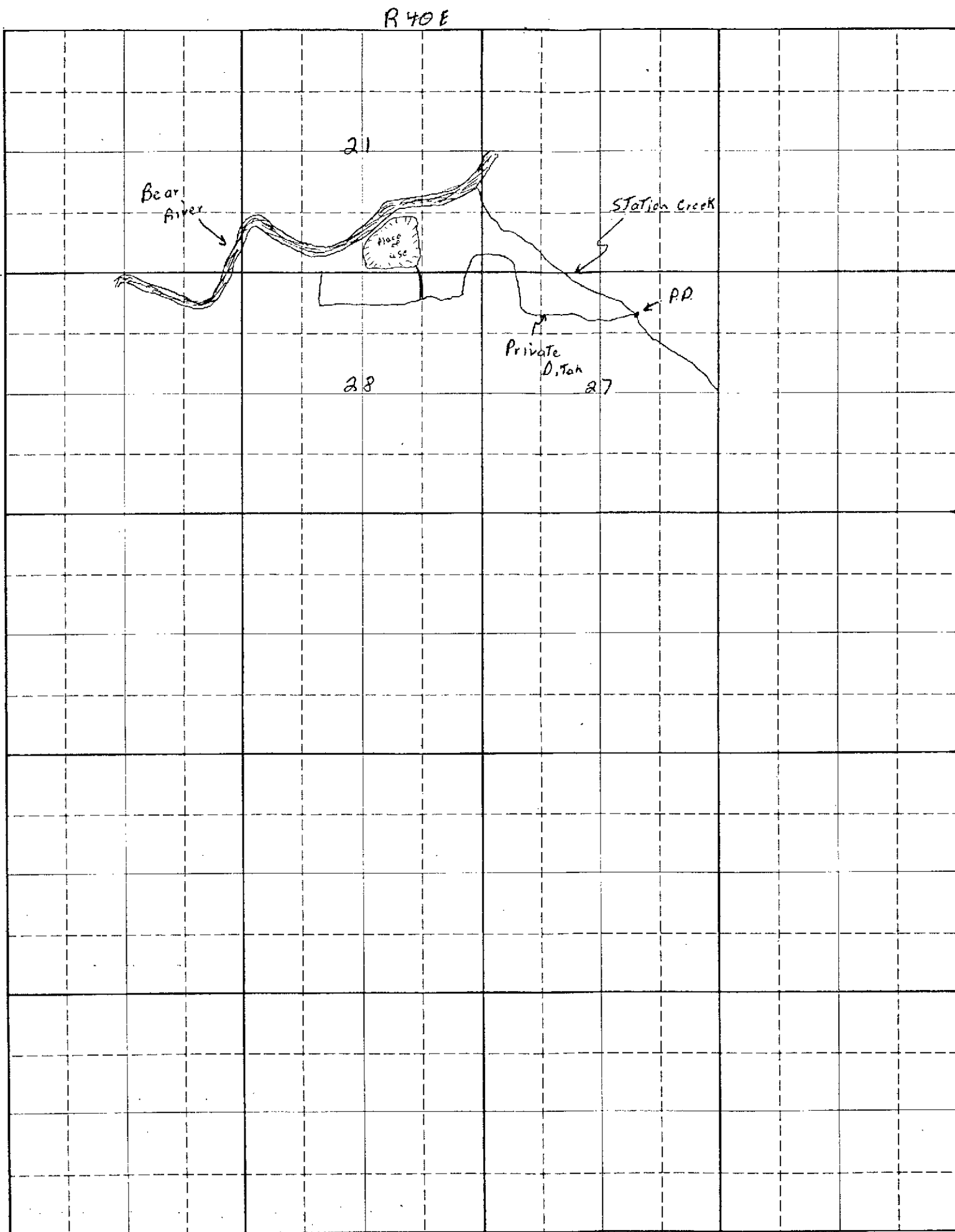
2. Change in place of use

- a. 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	40E	21															20		20

Total number of acres to be irrigated 20

3. 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.

4. Remarks _____

I hereby assert that no one will be injured by such change and 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.

Theo L. Smith
(Signature of applicant)

Subscribed and sworn to before me this 25th day of January, 19 80.

Arda K. Smith
(Notary public)

My commission expires 2-16-83.

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 ____.

FOR DEPARTMENT USE ONLY

Received by CW Date 1/28/80

Protest filed by _____

Prelim. check by _____ Fee \$35.00

Receipted by CW Date 1/29/80 #13548

Published in Preston Citizen

Copies of protest forwarded by _____

Pub. dates 2/7 & 2/14/80

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for approval _____ denial _____

_____ rec'd. _____

by _____

June 1, 1981

Theo L. Smith
RFD # 2
Preston, Idaho 83263

Dear Mr. Smith,

RE: Transfer of Water Right No. 11-0857

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 2393). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:mr
Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: JC

1. Right number 48311-0857 Applicant Smith, Theo
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Other P.D. described wrong in decree.
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use N/A
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. N/A Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments None.
 - i. ☒ N/A Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 11 - Stoken Bear River

FINAL PROCESSING REVIEW BY: Ernest Carlson

1. Watermaster recommendation requested on 2-4-1980 Received on 2-7-1980.
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No Protest withdrawn pursuant to agreement
See copy

RECOMMENDED ACTION

☒ Approve

☐ Deny

Conditions* 01E 05
01 Code (11 - Bear River)

4. By Ernest Carlson

Date 12-09-1980

February 21, 1980

RE: Application for Transfer No. 11-0857

Mr. Theo L. Smith
RFD #2
Preston, Idaho 83263

Dear Mr. Smith:

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?

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 Region Supervisor

RDC:cw:kw

Enclosure

cc: IDWR - State Office

MICROFILMED

February 21, 1980

RE: Application for Transfer No. 11-0857 THEO L. SMITH

Delmer Olsen
Jimmie D. Olson
Preston, Idaho 83263

Gentlemen:

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?

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 Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

RECEIVED
FEB 23 1980

February 21, 1980

RE: Application for Transfer No. 11-0857 THEO L. SMITH

Mr. Kent W. Foster
Attorney at Law
P.O. Box 129
Idaho Falls, Idaho 83401

Dear Mr. Foster:

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?

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 Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

Identification No. 11-0857

Transfer No. 2

APPLICATION FOR TRANSFER OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Russell D. Stoker, watermaster of Bear River,
of Water District No. 11, County of Bear Lake & Camanche & Franklin State of Idaho,
whose address is 279 E 3 N Soda Springs, Idaho 83276,
have read the attached copy of the application for transfer of water right for
Theo L. Smith, and to the best of my knowledge believe the
(name)
application to be true.

✓ A. I hereby endorse Application for Transfer and recommend that the State
Reclamation Engineer approve the Transfer subject to the following conditions:

None

OR

B. I do not endorse approval of this Application for Transfer as requested
for the following reasons:

Dated at Soda Springs, Idaho, this 7th day of Feb., 1980.

RECEIVED

FEB 7 1980

Department of Water Resources
Eastern District Office

Russell D. Stoker
(Signature)

February 4, 1980

RE: Application for Transfer 11-0857 (Theo L. Smith)

Russell D. Stoker
379 E. 3rd North
Soda Springs, ID 83276

Dear Mr. Stoker:

Please find enclosed a copy of the above referenced application and a Watermaster recommendation form. Please review the application and complete the form, returning it to this office on or before February 25, 1980.

Thank you for your cooperation in this matter.

Very truly yours,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

MICROFILMED

February 2, 1980

RE: Application for Transfer of Water Right No. 11-0857

Theo L. Smith
RFD #2
Preston, ID 83263

Dear Mr. Smith:

Attached herewith is Departmental Receipt No. 15548 in the amount of \$35.00 for the above referenced application.

Sincerely,

KAY WALKER
Secretary

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

JANUARY 28, 1980

The Preston Citizen
P. O. Box 472
Preston, Idaho 83263

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before FEBRUARY 25, 1980.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MAIL ROOM

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 11-0857

Notice is hereby given that Theo L. Smith, Preston, Idaho has applied to the Department of Water Resources for a change in the point of diversion of the waters of Station Creek tributary to the Bear River. The right sought to be changed is evidenced by Decreed Right No. 11-0857 in the case of Utah Power & Light Co. vs. Last Chance Canal Co. dated July 14, 1920 in District Court of Franklin County. The right sought to be changed was decreed to D. P. Evans and is recorded as follows:

AMOUNT: 0.40 cfs PRIORITY: May 1, 1882

POINT OF DIVERSION: Within Sec. 36, Twp. 14S, Rge. 40E, Franklin County.

The water is used to irrigate 20 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, Twp. 14S, Rge. 40E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, Twp. 14S, Rge. 40E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, - Idaho Falls, Idaho, 83401 on or before February 25, 1980.

C, STEPHEN ALLRED

Director

Published in the Preston Citizen on 2/7 & 2/14/1980.

RECEIVED
FEB 14 1980