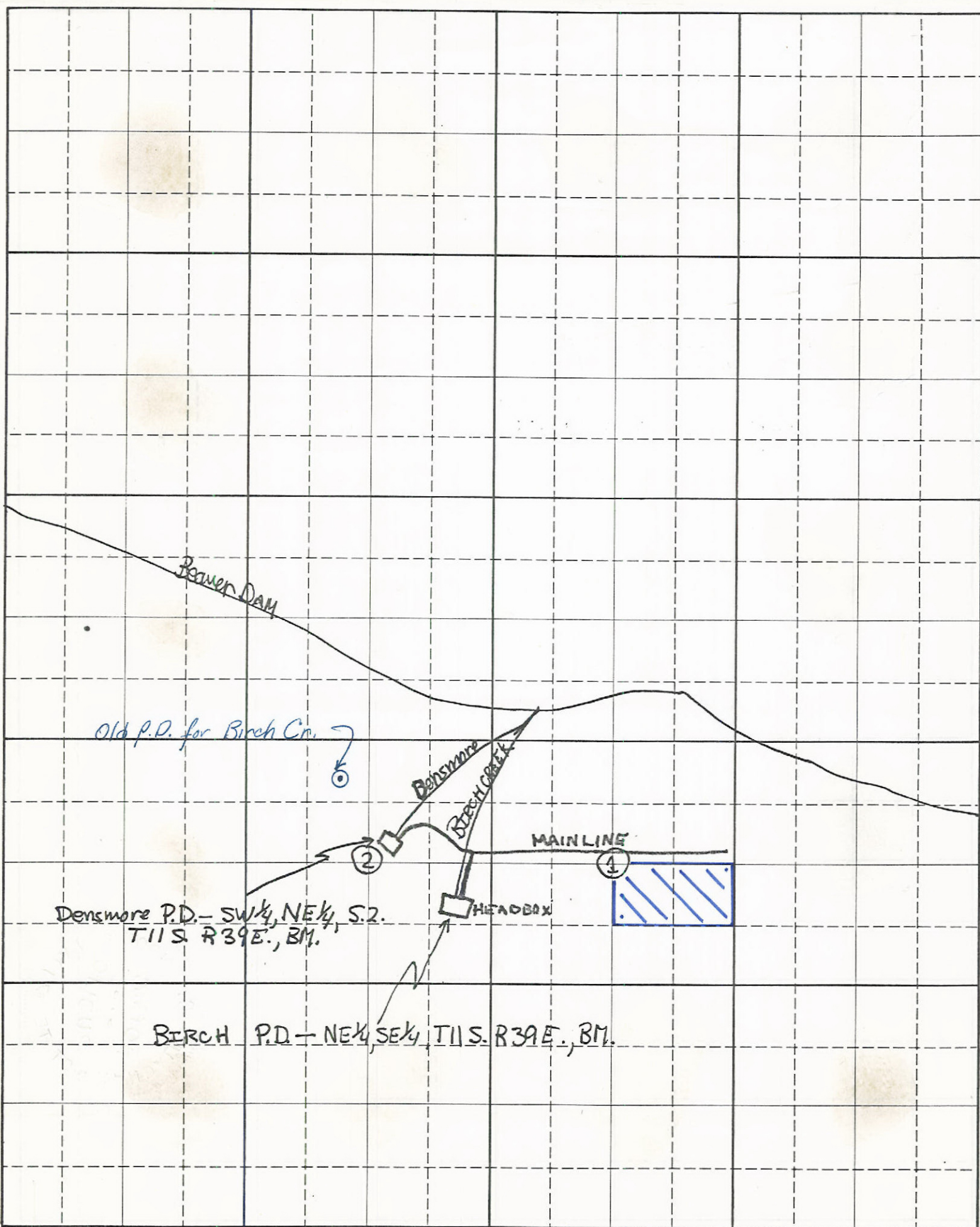


- b. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

RECEIVED

FEB 21 1978

Department of Water Resources
Eastern District Office

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 11-0554

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert, Grace, Idaho, have applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Birch Creek tributary to Beaver Dam Creek. The right sought to be changed is evidenced by decree to George M. and Mary E. Smith in case of Utah Power and Light Co. -vs- Last Chance Canal Company et al, dated July 14, 1920 in District Court Eastern Division, County of Bear Lake, Caribou and Franklin and is recorded as follows:

AMOUNT: 0.80 c.f.s.

PRIORITY: May 1, 1900

DECREED POINT OF DIVERSION: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County.

The water is used to irrigate 40 acres within the SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, B.M.

TO BE CHANGED
AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County and used to irrigation 40 acres within the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, 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 27, 1978.

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho, on February 9 and February 16, 1978.

Affidavit of
Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

9th day of
February, 1978

The date of the last publication being the 16th day of
February, 1978

Subscribed and sworn to be-

fore me this 16th day
of February, 1978

Clarence H. Steele
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March
1980.

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	George M. Smith	0.8		11-0554
2207	Don W. Gilbert Richard W. Gilbert	0.8	0	11-0554

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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 Don W. Gilbert & Richard W. Gilbert Phone 425-3332

Post office address Grace, Idaho 83241

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree to George M. & Mary E. Smith (Name)
in case of Utah Power & Light Co. vs Last Chance Canal Co. et al
dated 7-14-1920 in District Court county of Bear Lake, Caribou,
Eastern Division (Name of court) Franklin
- 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
Applicant and his predecessors in interest purchased all rights of the original holder

3. Source of water Birch Creek tributary to Beaver Dam Creek

4. Date of priority 5-01-1900

5. Water is used for the following purposes:
amount 0.80 for Irrigation purposes from Apr. 1 to Nov. 1
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)

6. Total amount of water under right: a. 0.80 cubic feet per second
b. _____ &/or
acre feet per annum

7. Location of original point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 2
Township 11S Range 39E, B.M., in Caribou 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 $\frac{1}{4}$	
11S	39E	1													X	X	X	X	40

Total number of acres to be irrigated 40

MICROFILMED

B. DESCRIPTION OF PORTION OF RIGHT FOR WHICH THE CHANGE IS REQUESTED (If the entire right is requested changed, 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:

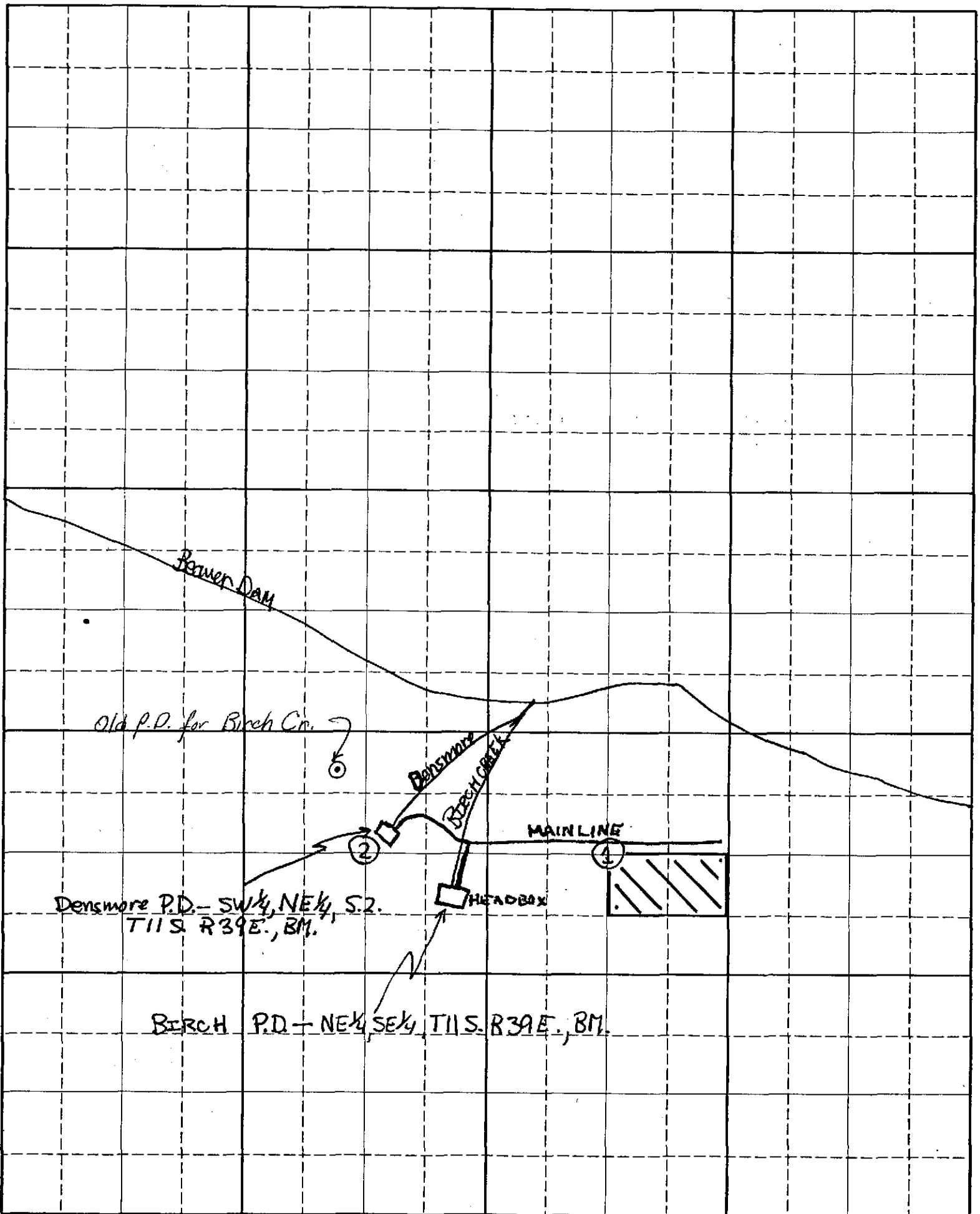
TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

1. Change in point of diversion
- a. Amount of water to be diverted 0.80 c.f.s. &/or _____ acre feet
- b. Point(s) of diversion NE ¼ SE ¼, Section 2 Township 11S
Range 39E, B.M., Caribou County
Additional points _____
- c. Description of diverting works existing headbox with 8-inch mainline metal pipe
- d. Describe the reasons for applying for a change in the point(s) of diversion The actual point of diversion and place of use has not changed since the right was decreed. Due to Scrivner's error the decreed description for point of diversion and place of use is erroneous and never has been correct. This application is made to correct the legal descriptions as to point of diversion and place of use so as to conform with the actual diversion and use of the water existing since the right
2. Change in place of use was decreed
- 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	
11S	39E	1													20	20			40

- b. 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.

3. 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.

x Richard W. Gilbert
x Row W. Gilbert
(Signature of applicant)

Subscribed and sworn to before me this 28th day of December, 1977.

Randall C. Budge
(Notary public)

RANDALL C. BUDGE
Notary Public State of Idaho
My commission expires SODA SPRINGS, IDAHO
Comm. Exp: 10-15-80

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 11-0554 and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.
2. Use of water under this transfer is subject to control by the watermaster of State Water District No. 11, Bear River.
3. Approval of this transfer is subject to the stipulation that the actual point of diversion and place of use has not changed since the right was decreed.

Witness my hand this 22ND day of August, 19 78.

Norman C. Young
Administrator

FOR DEPARTMENT USE ONLY

Received by <u>me</u>	Date <u>12-30-77</u>	Protest filed by <u>Lamont Jones</u>
Prelim. check by <u>EMC</u>	Fee <u>\$30.00</u>	
Receipted by <u>mb</u>	Date <u>12-12-77</u> # <u>10206</u>	
Published in <u>Caribou County News</u>		Copies of protest forwarded by <u>ed</u>
Pub. dates <u>Feb. 9+16-1978</u>		Hearing held by _____ Date _____
Watermaster recommendation requested on <u>2-13-78</u>		Recommended for <u>approval</u> denial
<u>W.D. #11</u> rec'd. <u>2-21-78</u>		by <u>RBC</u> <u>J.S.</u>
<u>Russell Stoker</u>		

RECEIVED

FEB 27 1978

EXCEPTION TO NOTICE OF PROPOSED CHANGE OF WATER RIGHT
Department of Water Resources
Eastern District Office

TO: C. Stephen Allred
1515 Lincoln Road
Idaho Falls, Idaho 83401

NOTICE IS HEREBY GIVEN THAT MERLIN AND EARLENE SMITH, husband and wife, of Grace, Idaho, take exception to the Notices of Proposed Changes of Water Rights, Nos. 11-0549 and 11-0554 filed by Don W. Gilbert and Richard W. Gilbert, Grace, Idaho, in the following particulars:

1. That neither of the above referenced Notices state what, if any, right the applicants have or claim to have in the waters described therein, which is contrary to the provisions of Idaho Code 42-108.
2. That the applicants are not the owners of any of the waters described in either notice above referenced.
3. That if the new diversion points as set forth in said Notices are the same as existed and were approved by the Honorable Francis J. Rasmussen in civil case no. 2164 of the records of Caribou County, Idaho, then and in that event, this protest is withdrawn. If by said Notices, new points of diversion other than those approved by the Court are requested, then both applications are protested.

DATED This 24th day of February 1978.


Attorney for Protestants

FILED

SUPERSEDED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

SUPERSEDED

J.S.
8/2/78

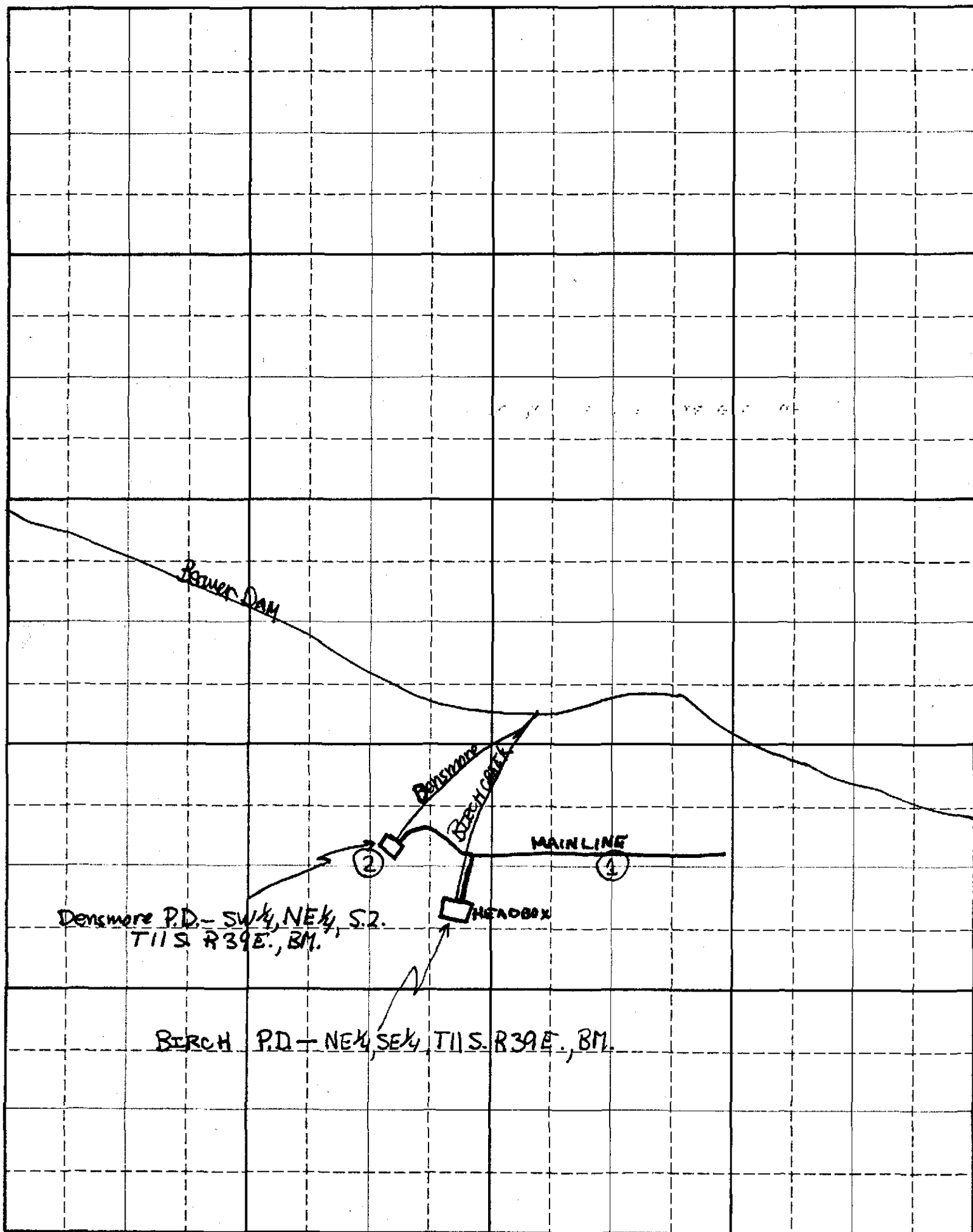
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder Don W. Gilbert and Richard W. Gilbert
Post office address Grace, Idaho 83241
2. Right obtained by:
a. Decree to George M. and Mary E. Smith in Case of Utah Power & Light Co.
(Name)
vs. Last Chance, Dated July 14, 1920 in District Court of the U.S. for
Canal Co. ET AL the District of Idaho, Eastern
Court. County of _____ Division, Equity No. 203
- b. License No. _____ issued by the State of Idaho, Department of Reclamation.
3. Source of water Birch Creek tributary to Beaver Dam Creek
(Name of stream or source)
4. Date of Priority 5-1-1900 11-0554
5. Amount of water a. .8 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for irrigation from April 1 to November 1
Decreed (Month, Day) (Month, Day)
7. ~~Original~~ Location of point of diversion is NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2,
Township 11 South, Range 39 East, B.M., in Caribou County;
Additional points of diversion, if any _____

8. Lands presently irrigated or place of use:
(decreed 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 $\frac{1}{4}$	
11 S	39 E	1													X	X	X	X	40 acres

MICROFILMED



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

9. If applicant was not the original holder of this right explain how it was acquired: Applicant and his predecessors in interest purchased all rights of the original holder.

10. CHANGE IN POINT OF DIVERSION

*(no physical change in diversion, but correction in erroneous description)

- a. Quantity to be diverted at new point: .8 c.f.s. and/or _____ acre feet
- b. New point of diversion: NE 1/4 SE 1/4, Section 2, Township 11 South
Range 39 East, B.M.
- c. Description of method of diversion and conveyance from new points of diversion: Diverted from existing headbox with 8 inch mainline metal pipe.

- d. Is water to be conveyed to the lands previously irrigated? Yes X No _____

If not, the place of use should be changed below.

- e. Describe the reasons for applying for a change in the point of diversion:

The actual point of diversion and place of use has not changed since the right was decreed. Due to Scribner's error the decreed description for point of diversion and place of use is erroneous and never has been correct. This application is made to correct the legal descriptions as to point of diversion and place of use so as to conform with the actual diversion and use of the water existing since the right was decreed.

- f. Do you intend to make the transfer permanent? Yes

- g. Do you intend to abandon completely the old point of diversion? (see 'e' above) Water was never diverted from the old or decreed point of diversion.

- h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

- a. Describe the new lands on which you wish to use your right.

(correct the description to reflect actual place of use since right decreed).

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	
11 S	39 E	1			X	X			X	X	X	X			X	X			260 acres

Total number of acres to be irrigated 260

- b. Do you intend to make the transfer permanent? Yes
- c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:
No. The lands at the decreed place of use will continue to be irrigated as well as the additional land set forth in 11a above.
- d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: _____
- e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Richard W. Gilbert
 (signature of applicant)

Subscribed and sworn to before me this 8th day of December, 1977

Randall C. Budge
 (notary public)
RANDALL C. BUDGE
 Notary Public State of Idaho
 SODA SPRINGS, IDAHO
 Comm. Exp: 10-15-80

My commission expires _____

**ACTION OF STATE RECLAMATION ENGINEER
 AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. _____, and said application is hereby _____

1. Approval of said application is subject to the following limitations and conditions:

2. Denial of said application is for the following reasons:

Witness my hand this _____ day of _____, 19____

 State Reclamation Engineer

FOR DEPARTMENT USE ONLY

Received by La Date 12-13-77 Protest filed by: _____ Date _____

Prelim. check by WNM Date 12-12-77

Fee received by mlb Date 12/12/77 Fee \$ 92-127 ^{230th Part of Report} _{#10206}

Approved for publication by _____

Published in _____ Dates _____

Hearing held _____

Watermaster Recommendation sent _____

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

9th day of February, 1978

The date of the last publication being the 16th day of

February, 1978

Mark Steele

Subscribed and sworn to before me this 16th day

of February, 1978
Clifford J. Steele

Notary Public, residing at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March
1980

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 11-0554

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert, Grace, Idaho, have applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Birch Creek tributary to Beaver Dam Creek. The right sought to be changed is evidenced by decree to George M. and Mary E. Smith in case of Utah Power and Light Co. vs. Last Chance Canal Company et al, dated July 14, 1920 in District Court Eastern Division, County of Bear Lake, Caribou and Franklin and is recorded as follows:

AMOUNT: 0.80 c.f.s.

PRIORITY: May 1, 1900.

DECREED POINT OF DIVERSION: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County.

The water is used to irrigate 40 acres within the SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County and used to irrigation 40 acres within the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, 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 27, 1978.

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho, on February 9 and February 16, 1978.

Department of Water Resources
Eastern District Office

FEB 21 1978

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff*,

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited, corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

11 0555

244. *Grover C. Hogan, substituted for
Alex M. Christensen:*
1882—May 1 1.9 c.f.s.

ter of Section 5, Township 11 South, Range
40 East, B. M.

For the irrigation of 95 acres of land in
the South half of the Northeast quarter of
Section 6; the South half of the Northwest
quarter, and the Northwest quarter of the
Northeast quarter of Section 5, Township
11 South, Range 40 East, and the South-
west quarter of the Southeast quarter of
Section 32, Township 10 South, Range 40
East.

BIRCH CREEK

A tributary to Densmore Creek.

11 0555

Trans.
#2094

245. *William Larkins and Dora Larkins:*
1882—May 1 1.0 c.f.s.

To be diverted from said creek through a
ditch diverting therefrom in the West half
of the Southeast quarter of Section 6,
Township 11 South, Range 40 East, for the
irrigation of 50 acres of land in the South-
east quarter of Section 6, and the North-
west quarter of the Southwest quarter of
Section 5, said Township and Range.

11 0555

Trans.
#2207

246. *George M. Smith and Mary E.
Smith:*
1900—May 1 0.8 c.f.s.

To be diverted from said creek in the
Northeast quarter of the Northwest quar-
ter of Section 2, Township 11 South, Range
39 East, B. M., for the irrigation of 40 acres
of land in the Southeast quarter of Section
1, Township 11 South, Range 39 East, B. M.

DRY CREEK

247. *Omitted.*

248. *Omitted.*

11 0555

249. *Walter Hogan:*
1904—May 1 3.0 c.f.s.

To be diverted through a ditch diverting
about a quarter of a mile Northwesterly
from the Southwest corner of Lot 4, Sec-
tion 7, Township 11 South, Range 40 East,
B. M., for the irrigation of 150 acres in Lot
4 of Section 7 and Lot 1 of Section 18,
Township 11 South, Range 40 East, B. M.
Also the Southeast quarter of the South-

INTER-DEPARTMENT MEMO — 1

FROM

DATE 1-17-79

TO File No. 11-0554

SUBJECT Hearing tapes -- see file No. 11-0549 for hearing tapes
GILBERT vs. SMITH

MICROFILMED

SIGNATURE

August 25, 1978

Re: Transfer No.'s 2207 and 2208

Don W. Gilbert & Richard W. Gilbert
Grace,
Idaho 83241

Gentlemen:

Enclosed are copies of your approved Applications for Transfer of Water Right
No.'s 11-0549 and 11-0554. Be sure to note the conditions of approval as listed
on the fourth page.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosures

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

State Office

REVIEW BY: J.J. T# 2207

1. Right number 11-0554 Applicant Don Gilbert
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Other correct error in decree
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☐ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use. ↓
5. Amount of land &/or water transferred: SE 1/4 section 1 40 ac.
 - 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. SW 1/4 sec 1 not included
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee. See letter of Randy Budge 2/3/78
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred. ? ok per NCY approval
 - h. ☒ Check for expansion in use of right. Comments _____
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) N/A
 - j. ☐ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 11

FINAL PROCESSING REVIEW BY: J.J.

1. Watermaster recommendation requested on 2-03-78 Received on 2-21-78
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No see memo 5/24/78

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* # 2 & # 6
Approval of this transfer is subject to the stipulation that water right was in use prior to the application for transfer
4. By J.J. Date 8/17/78

MICROFILMED

MEMO TO THE FILE
FROM RON CARLSON

May 24, 1978

The record of the hearing held in the matter of protests filed against applications for transfer Nos. 11-0549 and 11-0554 shows the protests were withdrawn under the stipulation that the points shown at which these rights are to be diverted have existed for many years and the purpose of these transfers is only to correct the rights shown in the Dietrich Decree.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

May 4, 1978

Ms. Ann Cook
County Extension Office
Caribou County Courthouse
Soda Springs, Idaho 83276

Dear Ann:

This is to confirm the use of the Legion Room for conference and/or hearing to be held by this Department on the following days:

Wednesday, May 10, 1978	9:00 a.m.
Thursday, May 11, 1978	9:00 a.m. (all day)
Wednesday, May 24, 1978	9:00 a.m.
Thursday, May 25, 1978	9:00 a.m.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Secretary

MICROFILMED

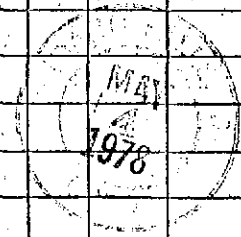
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

Name and Address of Sender

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED C.O.D.
☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	POST. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
1 1003	Rogers & Niles, Sargent St #6, Idaho Falls, Id.	13	60					25-7103
1004	Wheatfield, Bloomington Id.							11-1058
1005	Grant, Coeur d'Alene, Idaho							"
1006	Ray & Kohler, 852 Washington, Montpelier							"
1007	Blythe Nelson, Box 747, Soda, Ida.						11-7097	"
1008	James Brown, Bloomington Id.							"
1009	Arthur C. Miller, P. Charles Id.							"
1010	Leonard Ringgold, P. O. Box 915, Soda Spg.							"
1011	Watts, K. R. Co., Bloomington Id.							"
1012	Uddell, R. L. Co., 484 Washington, Montpelier Id.						11-7097	"
1013	Wiggins, Mrs. Charles & Mildred, 524 W. 1st, Portland, Oregon							11-7097
1014	Adella Pittman, 177-28, Kichfield, Utah						11-1058	"
13	Sent by Certified Mail 504-78 Cw							
14	Not Certified: Russell Stokes, 29 E 3rd St, Soda						11-0549	13-1227 11-0553 11-1058
15	Mr. Everett Smith, Box 62, Thore, Id.						11-0548, 0549, 0554	13-7227
16	Albert M. Johnson, Health Dept. City of Pocatello, John Kenney							29-7137
17								
18								
19								
20								



MICROFILMED

Postmaster Please
Indicate Registered

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

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Address
of Sender

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NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	HEST. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
1 83	Remont Jones, P.O. Box 967 Pocatello	13	60			11-0554	7	11-0549
2 984	Marlin & Charles Smith, P.O. Box 10					13-7227	11-0554	"
3 985	Donald C. Dodge, P.O. Box 833 Idaho Falls Id.					13-7227	"	"
4 986	Marion & Adella Smith, P.O. Box 10							13-7227
5 987	Mar. F. Larrick, 250 E. Center, Pocatello, Id.							"
6 988	Marion Hogan, P.O. Box 10							"
7 989	Mar. & Charles Smith, P.O. Box 10							"
8 990	Thomas M. Hughes, P.O. Box 839, Salt Lake, Utah							"
9 991	Mar. & Charles Smith, P.O. Box 10							11-0624
10 992	Mar. & Charles Smith, P.O. Box 10							"
11 993	Mar. & Charles Smith, P.O. Box 10							"
12 994	Mar. & Charles Smith, P.O. Box 10							"
13 995	Mar. & Charles Smith, P.O. Box 10							"
14 996	Mar. & Charles Smith, P.O. Box 10							"
15 997	Mar. & Charles Smith, P.O. Box 10							"
16 998	Mar. & Charles Smith, P.O. Box 10							"
17 999	Mar. & Charles Smith, P.O. Box 10							"
18 1000	Mar. & Charles Smith, P.O. Box 10							"
19 1001	Mar. & Charles Smith, P.O. Box 10							"
20 1002	Mar. & Charles Smith, P.O. Box 10							"

TOTAL NO. OF PIECES LISTED BY SENDER

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*Show under "Remarks" class postage paid if other than first or if international

RECEIVED

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

Name and Address of Sender

Indicate type of mail:
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Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
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NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REST. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
963	Kenneth W. Smith, Rt. 1, Box 41, American Falls	13	60					35-7766
964	Gray & Fidler & Jim Evans, Rt. #1, Box 40, Am.							"
965	Geo. Carver, P.O. Box 70, Am. Falls, Id.							"
966	Stuart Crane, Pomeroy, Id.						11-0548	11-0253
967	Don W. Dilbert, Shoshone, Id. Last Chance Creek						13-7227	"
968	Russell C. Burge, P.O. Box 833, Soda Springs						11-0548	"
969	George Humphrey, P.O. Box 915, Soda Springs							"
970	John A. Platt, P.O. Box 27, Boise, Id.							29-7437
971	John A. Platt, P.O. Box 912, Pocatello, Id.							"
972	Karl Miller, 275 Yellowstone, Pocatello, Id.							"
973	Thos. Veda Kusan, Rt. 2, Box 19, Pocatello, Id.							"
974	Albert Johnson, Rt. #2, Box 319, Pocatello, Id.							"
975	Mr. John Kusan, Rt. #1, Box 82, Pocatello							"
976	Robert L. Brown, Rt. #2, Box 124, Pocatello, Id.							"
977	Robert J. Jett, 929 1/2 Chubbuck Rd, Pocatello, Id.							"
978	L. J. Muckey, Rt. #1, Box 88, Pocatello, Id.							"
979	Paula D. Crandall, Rt. #2, Box 21, Pocatello, Id.							"
980	Sam Mc Nabb, Rt. #1, Box 62, Pocatello, Id.							"
981	Merlin R. Smith, Rt. #1, Box 113, Shoshone							11-0548 etc
982	Don W. & Richard W. Dilbert, Shoshone, Id.							13-7227 11-0548 T 11-0549

MAY 4 1978
 SPO

Not by Certified mail 5-04-78
 CW

TOTAL NO. OF PIECES LISTED BY SENDER

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TOTAL NO. OF PIECES REC'D AT P.O.

POSTMAN, PER (Name of receiving employee)

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

(Declaration of value is required on international registered mail)
 ★ U. S. GOVERNMENT PRINTING OFFICE: 1974-0-529-728

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protests Against Approval)
of Application for Transfer No. 11-0548/etc.)
in the Name of MERLIN R. SMITH; No. 11-0549)
and 11-0554 in the Names of DON W. GILBERT)
and RICHARD W. GILBERT: and Application for)
Permit No. 13-7227 in the Name of DON W.)
GILBERT)

NOTICE OF HEARING

DATE CHANGE

Notice is hereby given that the Department of Water Resources has cancelled the conference and/or hearing concerning the above referenced applications scheduled for Wednesday, May 3, 1978, at 9:00 a.m.

The Department has rescheduled the conference and/or hearing for Wednesday, May 24, 1978, at 9:00 a.m., in the Legion Room of the Caribou County Courthouse, Soda Springs, Idaho.

This hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated April 12, 1978.

Dated this 3rd day of May, 1978.



RONALD D. CARLSON
Supervisor, Eastern Region

RECEIVED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

April 17, 1978

Ms. Ann Cook
Legion Room
Caribou County Courthouse
Soda Springs, Idaho 83276

Dear Ms. Cook:

This is to confirm the use of the Legion Room for conference and/or hearing to be held by this office on Wednesday, May 3, 1978, beginning at 9:00 a.m., and on Thursday, May 11, 1978, beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

RECEIVED
MAY 17 1978
IDaho FALLS

MICROFILMED

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

Name and
Address
of Sender

Indicate type of mail:

☐ REGISTERED ☐ REGISTERED
☐ C.O.D. ☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional
copies of this bill.
POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REST. DET. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
1 894	John H. Magallup, 456 E. 2nd St. Lethbridge, Id.	13	60				T	21-0004/AB
895	Harry M. Doyle, P.O. Box 96 Idaho Falls, Id.							"
3 896	James Webster, 1317 1/2 St. Lethbridge, Id.							"
4 897	Thomas M. Neal, Rt. 2, Box 332, Idaho Falls, Id.							"
5 898	Billy J. Schopp, Rt. 2 Ashton, Id.							21-7142
6 899	Wm. B. Bowers, Ashton, Id.							"
7 900	3rd Grade, Ashton, Id.							"
8 901	H. Mary Zundel, Rt. 2 Ashton, Id.							"
9 902	James Joseph Hummer, Id.							"
10 903	Don D. Schaberg, Rt. 2 Ashton						T	21-0138/39
11 904	Check R. Cartwright, P.O. Box 250 Lethbridge, Id.							"
12 905	James Joseph Hummer, Id.							"
13 906	Martin Bergman, Box 277 Ashton, Id.							"
14 907	Robert Richard W. Willett, Grace, Id.					11-0253		11-0554
15 908	Tommy Jones, P.O. Box 967 Coeur d'Alene, Id.					13-7221		11-0549
16 909	Landon R. Budge, P.O. Box 833 Soda Springs, Id.					11-0253		13-7227
17 910	Melvin C. Caskey, Smith, Grace, Id.							"
18 911	Don Harris, Grace, Id.							"
19 912	Norman Wendell Smith, Coeur d'Alene, Id.							"
20 913	Marjorie Smith, 250 E. Canton Coeur d'Alene							"

TOTAL NO. OF PIECES
LISTED BY SENDER

20

TOTAL NO. OF
PIECES REC'D AT P.O.

POSTMASTER, PER (name of receiving employee)

*Show under "Remarks" class postage paid if other than first or
if international

PS Form 3877, Dec. 1973

APPLICATION FOR REGISTERED, REGISTERED C.O.D., AND CERTIFIED MAIL

(Declaration of value is required on international registered mail)

★ U. S. GOVERNMENT PRINTING OFFICE: 1974-0-573-725

FORM MUST BE MADE CUT IN INK OR BRILL POINT PEN

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

~~DD~~

In the Matter of Protests Against Approval)
of Application for Transfer No. 11-0548/etc.)
in the Name of MERLIN R. SMITH, No. 11-0549)
and 11-0554 in the Names of DON W. GILBERT)
and RICHARD W. GILBERT; and Application for)
Permit No. 13-7227 in the Name of DON W.)
GILBERT)

NOTICE OF COMBINED
CONFERENCE AND/OR HEARING

On April 29, 1977, Merlin R. Smith filed with the Department of Water Resources an application to transfer the waters of the State of Idaho. On June 2, 1977, the Department received a protest against approval of said application from Don W. Gilbert.

On December 12, 1977, Don W. Gilbert and Richard W. Gilbert filed with the Department of Water Resources applications to transfer the waters of the State of Idaho. On February 27, 1978, the Department received a protest from Lamont Jones, Attorney, in behalf of Merlin and Earlene Smith, against said applications for transfers. On December 12, 1977, Don W. Gilbert filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On January 23, 1978, the Department received a protest from Thomas W. Forsgren, Attorney for Utah Power and Light. On January 27, 1978, an additional protest was received from Lamont Jones, Attorney, in behalf of Merlin Smith and Earlene Smith, and Don Harris and Norma Harris. On January 30, 1978, protests were received by Dean Hogan, Gentile Valley Irrigation Company; Max F. Parrish, Attorney in behalf of of Hyrum Wendell Smith and Adella M. Smith; and Craig Wilker. The protest submitted by Craig Wilker was later withdrawn.

The Department has set the matter for conference and/or hearing for Wednesday, May 24, 1978, at 9:00 a.m., in the Legion Room of the Caribou County Courthouse, Soda Springs, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence.

RECORDED
INDEXED

and arguments on all issues involved. Because of the similarity of the issues involved, the Department proposes to consolidate the conference and/or hearings as provided in Rule 9.7 of the Department's Rules of Practice and Procedure.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicants or protestants may allow the Department without prejudice to dismiss the protests or the applications. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 3rd day of May, 1978.

A handwritten signature in cursive script, reading "Ronald D. Carlson". The signature is written in dark ink and is positioned above a horizontal line.

RONALD D. CARLSON
Supervisor, Eastern Region

RECEIVED
MAY 10 1978
U.S. DEPARTMENT OF
THE INTERIOR

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protests Against)
Approval of Applications for Transfers)
No. 11-0554 and 11-0549 in the Names)
of DON W. GILBERT and RICHARD W.)
GILBERT, and Application for Permit)
No. 13-7227 in the Name of DON W.)
GILBERT)

NOTICE OF CONFERENCE
AND/OR HEARING

On December 12, 1977, Don W. Bilbert and Richard W. Gilbert filed with the Department of Water Resources applications to transfer the waters of the State of Idaho. On February 27, 1978, the Department recieved a protest from Lamont Jones, Attorney, in behalf of Merlin and Earlene Smith, against said applications for transfers. On December 12, 1977, Don W. Gilbert filed with the Department of Water Resources an application to appropriation the public waters of the State of Idaho. On January 23, 1978, the Department received a protest from Thomas W. Forsgren, Attorney for Utah Power and Light. On January 27, 1978, an additional protest was received from Lamont Jones, Attorney, in behalf of Merlin Smith and Earlene Smith, and Don Harris and Norma Harris. On January 30, 1978, protests were received by Dean Hogan, Gentile Valley Irrigation Company; Max F. Parrish, Attorney, in behalf of Hyrum Wendell Smith and Adella M. Smith; and Craig Wilker. The protest submitted by Craig Wilker was later withdrawn.

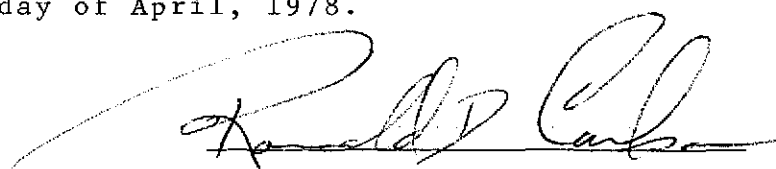
The Department has set the matter of protests for conference and/or hearing for Wednesday, May 3, 1978, at 9:00 a.m., in the Legion Room of the Caribou County Courthouse, Soda Springs, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved. Because of the similarity of the issues involved, the Department proposes to consolidate the conference and/or hearings as provided in Rule 9.7 of the Department's Rules of Practice and Procedure.

FILED
MAY 3 1978
IDAHO

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department without prejudice to dismiss the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 12th day of April, 1978.

A handwritten signature in dark ink, appearing to read "Ronald D. Carlson", written over a horizontal line.

RONALD D. CARLSON
Supervisor, Eastern Region

RECEIVED
MAY 1 1978



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

February 27, 1978

RE: Transfer of Water Right No. 11-0554 GILBERT
11-0549 "

Lamont Jones, Chartered
Law Offices
P.O. Box 967
405 West Whitman
Pocatello, ID 83201

Dear Mr. Jones:

This is to acknowledge receipt of the protest to issuance of the above referenced application which you submitted on behalf of Merlin and Earlene Smith. 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 to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

cc: Merlin and Earlene Smith

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

February 27, 1978

RE: Application for Transfer of Water Right No. 11-0554
11-0549

Don W. Gilbert
and Richard W. Gilbert
Grace, Idaho 83241

Gentlemen:

Enclosed please find a copy of the protest filed by Lamont Jones, Attorney, in behalf of Merlin and Earlene Smith 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 to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

Enclosure

MICROFILMED

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 11-0554

RECEIVED

FEB 22 1978

RECOMMENDATION OF WATERMASTER

Department of Water Resources
Eastern District Office

I, Russell D. Stoker, watermaster of Bear River,
of Water District No. 11, County of Caribou, State of Idaho,
whose address is 279 E 3rd N, Soda Springs, Idaho 83276
have read the attached copy of the application for transfer of water right for _____
Don W. Gilbert, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: None

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: _____

Dated at Soda Springs, Idaho, this 21st day of Feb. 19 78.

Russell D. Stoker
(signature)

RECEIVED

MEMORANDUM

TO: File
FROM: Ernie Carlsen *mc*
RE: Transfer No. 11-0554/and 11-0549 GILBERTS
DATE: February 7, 1978

I contacted Randall C. Budge by telephone explaining we still needed proof of ownership for the other half of decreed rights No. 11-0554 and 11-0549 from Hyrum Wendell and Adella M. Smith. He stated copies of this could be provided and also a letter giving their consent ~~to~~ ^{for} the inclusion of their portion of these two rights in the respective transfers.

Transtrum Budge, Chartered

A Professional Corporation

WALLACE M. TRANSTRUM

RANDALL C. BUDGE

Attorneys at Law

A. BRUCE LARSON

240 So. Main - Suite A - Telephone 208-547-3944
P.O. Box 833 - Soda Springs, Idaho 83276

February 3, 1978

State of Idaho
Department of Water Resources
Eastern Division
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED
FEB 6 1978
Department of Water Resources
Eastern District Office

Gentlemen:

Enclosed please find two claims to a water right which we are resubmitting on behalf of Don W. Gilbert and Richard W. Gilbert on your updated forms. These claims were previously submitted on outdated forms at which time the filing fees were paid.

Also enclosed are two applications for permit which are re-submitting on behalf of Don W. Gilbert. These also have been previously submitted on outdated forms at which time the filing fees were paid. Please don't hesitate to contact me if any additional information is needed to aid you in processing these claims and applications.

Sometime ago your office requested some additional information in conjunction with applications for transfer of water right #11-0554 and #11-0549, to establish the applicant's ownership of the land to which the decreed water rights are appurtenant. In this regard I am enclosing a certified copy of the Contract of Sale of Real Estate and Warranty Deed, both of which are held in escrow at Idaho First National Bank, Soda Springs, Idaho, whereby the Gilberts are purchasing the land and appurtenant water rights. You will note that the Gilberts are acquiring a one/half interest in the water rights originally decreed to George and Mary E. Smith as #241 and #246 in the case of Utah Power & Light Company vs. Last Chance Canal Company, et al dated July 14, 1920. Mr. Hiram Wendall Smith and Adella M. Smith own the remaining one/half interest in the above decreed rights. The Gilberts presently lease the Hiram Wendall and Adella M. Smith property and appurtenant water rights, and as such have filed applications for transfer #11-0554 and #11-0549 as well as claims #13-4061 and #13-4062 (processed previously) on the full amount of the originally decreed rights to protect the interests of both Don W. and Richard W. Gilbert and Hiram Wendall and Adella Smith.

State of Idaho
Department of Water Resources
Eastern Division
February 3, 1978
Page 2

I recently discussed this matter with the Eastern Division Supervisor, Mr. Ronald D. Carlson, who advised me that it would be proper for the Gilberts to make these applications and claims on the full decreed right even though they only owned a one/half interest in that right, for the reason that the Gilberts were leasing from H. Wendell and Adella Smith the other half of the decreed right and the land to which it is appurtenant.

Very truly yours,


Randall C. Budge

RCB/mb
Enclosures

RECEIVED

CONTRACT OF SALE OF REAL ESTATE

THIS CONTRACT, Made and executed this 14th day of March, 1973, by and between Max E. Smith and Eileen Smith, husband and wife, of Midvale, Salt Lake County, Utah, the parties of the first part, hereinafter called Sellers, and Don W. Gilbert and Dolores C. Gilbert, husband and wife, and Richard W. Gilbert and Christine N. Gilbert, husband and wife, all of Grace, Caribou County, Idaho, the parties of the second part, hereinafter called Buyers: -

WITNESSETH: That the Sellers, for and in consideration of the covenants and agreements on the part of the Buyers hereinafter contained, agree to sell and convey unto the Buyers, and the Buyers agree to buy all that certain real estate located in Caribou County, Idaho, more particularly described as follows, to-wit:

Township 11 South, Range 39 East of the Boise Meridian:

Section 1: Lots 6 and 7, NW1/4, S1/4NW1, NE1/4SW1, S1/4SW1, ALSO, Beginning at the Northwest corner of Lot 6, Section 6, Township 11 South, Range 40 East of the Boise Meridian, and running thence West parallel with the North line of Lot 6 and of the NW1/4 of Section 1, aforesaid, to a point due North of the center of said Section 1; thence South to the center of said Section 1; thence East to the Northeast corner of Lot 6 of said Section 1; thence North to the point of beginning.

Section 2: SE1/4SE1.

Section 12: NE1/4NW1.

Township 11 South, Range 40 East of the Boise Meridian:

Section 6: Lots 6 and 7, E1/4SW1.

Section 7: Lots 1, 2 and 3, NE1/4SW1, NW1/4SE1, E1/4NW1 and W1/4NE1.

Together with a sprinkler system, including a buried main line and 1/2 mile of laterals.

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: 30 miner's inches of waters of Lonsmore Creek, and 20 miner's inches of waters of Birch Creek, all with priority of May 1, 1900, decreed to the above property by decree dated July 14, 1920, recorded in Book 41 of Deeds at page 191, records of Bannock County, Idaho.

EXCEPT THEREFROM a culinary right for use on the W1/4NW1SW1 of Section 1, township and range aforesaid.

I La Rue Stone operation Supervisor of the Idaho First National Bank of Soda Springs Idaho do hereby certify that the foregoing documents is a true & correct copy of the original held in escrow # 145 at above address.

La Rue Stone

MICROFILMED

Page 2. - Contract of Sale of Real Estate
Smith - Gilbert

Sellers agree to sell said premises and property, and the Buyers agree to purchase the same, for a total sum and consideration of ONE HUNDRED TEN THOUSAND AND NO/100 DOLLARS, payable as follows:

\$20,000.00 to be due and payable on or before April 16, 1973; and the balance in the sum of \$90,000.00 together with interest thereon at the rate of 7% per annum from April 16, 1973, to be paid in annual installments of not less than \$ 3,000.00 plus interest, the first such payment to be due and payable on or before April 16, 1974, and succeeding payments to be paid on or before the 16th day of April in each succeeding year thereafter, until said purchase price, together with interest as aforesaid, has been fully paid. PROVIDED HOWEVER, that Buyers may make extra payments on any regular payment date, so long as the principal payment shall not exceed \$9,000.00 in any one year.

In the event of crop failure, Buyers may pass one year's payment, but the same shall be made up the next year. In such event, the Buyers shall give 30 days written notice prior to the payment due date.

Buyers shall be entitled to possession of said premises upon the execution of this contract.

Sellers agree to pay all taxes, levies and assessments for 1972 and prior years; and Buyers agree to pay all taxes, levies and assessments for 1973 and subsequent years, the same to be paid when due, and prior to any delinquency, during the term of this contract.

Buyers shall keep fire insurance on the house located on said premises to the extent of its reasonable insurance value during the life of this contract, and in an amount sufficient to satisfy the Federal Land Bank of Spokane loan requirements.

In the event the Buyers shall default in the payment of any special or general taxes, assessments or insurance premiums as herein provided, the Sellers may, at their option, pay said taxes, levies, assessments and insurance premiums or either of them, and if Sellers elect so to do, then the Buyers agree to repay the Sellers upon demand, all such sums so advanced and paid by them, together with interest thereon from date of payment of said sums at the rate of 3/4 of one percent per month until paid.

It is further understood and agreed that there is presently a Federal Land Bank of Spokane mortgage on the above described premises. Sellers hereby agree to clear the same before the time for delivery of the deed hereunder.

Sellers agree to furnish to Buyers a purchaser's policy of title insurance in the amount of \$110,000.00.

RECORDED

Page 3. - Contract of Sale of Real Estate
Smith - Gilbert

In the event of default under the terms of this contract, whether by non-payment of any installment hereunder, or otherwise, which default continues for a period of 15 days time, Sellers shall cause notice to be given to Buyers, through said Escrow Holder hereinafter named, by certified mail, addressed to said Buyers at the last address they shall have provided in writing to said escrow holder; and, if said default be cured within the period hereinafter mentioned, then this contract shall remain in full force and effect; but if said default be not cured within ninety days of the giving of such notice, then said contract shall be null and void, and the escrow holder shall return all property and documents placed in said escrow, and not required for the permanent file of said escrow holder, to said Sellers.

It is understood and agreed that the above and foregoing remedy is cumulative, and Sellers shall have any other remedy permitted them by the laws of the State of Idaho; and in event it shall become necessary to foreclose this contract by judicial action, Buyers agree to pay a reasonable attorney's fee, together with the other costs of court allowed by law.

In order to carry the provisions of this contract into effect, it is hereby agreed that a copy of this contract, together with a good and sufficient Warranty Deed from Sellers to Buyers, shall be placed in escrow with the Idaho First National Bank, at Soda Springs, Idaho, and upon completion of payments hereunder by said Buyers, Escrow Holder is hereby authorized to deliver to Buyers the said Warranty Deed, together with any other documents or property then held in said escrow. All payments made hereunder shall be made to said Escrow Holder.

In event of default as above set forth, and foreclosure by notice or by judicial action, as above provided, Sellers shall be entitled to retain all sums paid hereunder, as and for rental for the use and occupancy of said premises, and for liquidated damages for the breach of this contract.

This contract shall be binding upon, and shall inure to the benefit of, the parties hereto, their respective heirs, executors, administrators, successors and assigns.

Page 4. - Contract of Sale of Real Estate
Smith - Gilbert

IN WITNESS WHEREOF, the said parties hereto have hereunto set their
hands as of the day and year in this Contract first above written.

Max E. Smith

MAX E. SMITH

Eileen Smith

EILEEN SMITH

SELLERS.

Don W. Gilbert

DON W. GILBERT

Dolores Gilbert

DOLORES C. GILBERT

Richard W. Gilbert

RICHARD W. GILBERT

Christine N. Gilbert

CHRISTINE N. GILBERT

BUYERS.

STATE OF IDAHO)
County of Caribou) ss.

On this 16th day of April, 1973, before me, the undersigned, a
Notary Public in and for said County and State, personally appeared Max E.
Smith and Eileen Smith, husband and wife,; Don W. Gilbert and Dolores C.
Gilbert, husband and wife, and Richard W. Gilbert and Christine N. Gilbert,
husband and wife, known to me to be the persons whose names are subscribed
to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal, the day and year in the certificate first above written.

Leonard O. Kingsford

NOTARY PUBLIC for the State of Idaho.
Residing at Soda Springs, Idaho.
My commission expires August 14, 1973.

MICROFILMED

Warranty Deed

THIS INDENTURE, Made this 14th day of March
in the year of our Lord One Thousand Nine Hundred and Seventy-three, between

Max E. Smith and Eileen Smith, husband and wife,
of Midvale, County of Salt Lake, State of Utah,
the parties of the first part, and Don W. Gilbert and Dolores C. Gilbert, husband and wife,
and Richard W. Gilbert and Christine N. Gilbert, husband and wife, all

of Grace, County of Caribou, State of Idaho,
the part} of the second part:

WITNESSETH: That the said part 1st of the first part, for and in consideration of the sum of ONE HUNDRED TEN THOUSAND AND NO/100 - - - - - DOLLARS, lawful money of the United States of America, to them in hand paid by the said part 1st of the second part, the receipt whereof is hereby acknowledged

of the second part, and to
 force or parcel of land situate, lying and being in the County of
 and more particularly described as follows, to-wit:

Township 11 South, Range 39 East of the Boise Meridian:

Section 1: Lots 6 and 7, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$,
ALSO, Beginning at the Northwest corner of Lot 6, Section 6,
Township 11 South, Range 40 East of the Boise Meridian, and running
thence West parallel with the North line of Lot 6 and of the
NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, aforesaid, to a point due North of the
center of said Section 1;
thence South to the center of said Section 1;
thence East to the Northeast corner of Lot 6 of said Section 1;
thence North to the point of beginning.

Section 2: SE₁/SE₂ .
Section 12: NE₁/NW₁ .

Township 11 South, Range 40 East of the Boise Meridian:

Section 6: Lots 6 and 7, E¹/₂SW¹/₄.
Section 7: Lots 1, 2 and 3, NE¹/₂SW¹/₄, NW¹/₂SE¹/₄, E¹/₂NW¹/₄, W¹/₂W¹/₂NE¹/₄.

Together with a sprinkler system, including a buried main line and 1/2 mile of laterals.

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: 30 miner's inches of waters of Densmore Creek, and 20 miner's inches of waters of Birch Creek, all with priority of May 1, 1900, decreed to the above property by decree dated July 14, 1920, recorded in Book 41 of Deeds at page 191, records of Bannock County, Idaho.

EXCEPT THEREFROM a culinary right for use on the W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1,
township and range aforesaid.

Together with all and singular, the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident unto the said part ies of the second part, and to their heirs and assigns forever. And the said part ies of the first part, and their heirs the said premises in the quiet and peaceable possession of the said part ies of the second part their heirs and assigns against the said parties of the first part, and their heirs and against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said parties of the first part have herunto set their hands and seal on the day and year first above written.

Signed, Sealed and Delivered in the Presence of

~~MAX E. SMITH~~

WILLIAM SMITH

[Scat]

Sea

[Seal]

[Seal]

RECEIVED

February 3, 1978

RE: Application for Transfer No. 11-0549
No. 11-0554 GILBERTS

Caribou County Sun
P.O. Box 815
Soda Springs, Idaho 83276

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enc: Legal Notice (2)

Bill submitted 2-21-78 by CW

MICROFILMED

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 11-0554

Notice is hereby given that Don W. Gilbert & Richard W. Gilbert, Grace, Idaho, have applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Birch Creek tributary to Beaver Dam Creek. The right sought to be changed is evidenced by decree to George M. & Mary E. Smith in case of Utah Power and Light Co. -vs- Last Chance Canal Company et al, dated July 14, 1920 in District Court Eastern Division, County of Bear Lake, Caribou and Franklin and is recorded as follows:

AMOUNT: 0.80 c.f.s.

PRIORITY: May 1, 1900

DECREED POINT OF DIVERSION: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M.,
Caribou County.

The water is used to irrigate 40 acres within the SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be **diverted** within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County and used to irrigation 40 acres within the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 1, T. 11S, R. 39E, 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 27, 1978.

C. STEPHEN ALLRED

Director

Published in the Caribou County Sun, Soda Springs, Idaho, on February 9 and February 16, 1978

P-77
MICROFILMED
CW-L



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

February 3, 1978

RE: Transfer of Water Right No, 11-0549 GILBERT
11-0554

Mr. Russell D. Stoker, Watermaster
Water District No. 11
279 East 3rd North
Soda Springs, Idaho 83276

Dear Mr. Stoker:

Please find enclosed a copy of the above referenced applications and watermaster recommendation forms. Please review the applications and complete the forms, returning them to this office on or before February 27, 1978.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

Enclosure

RECEIVED
FEB 14 1978
WATER RESOURCES
DIVISION



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

January 3, 1978

RE: Application for Transfer No. 11-0554 and 11-0549

Mr. Randall C. Budge
Attorney at Law
P.O. Box 833
Soda Springs, Idaho 83276

Dear Mr. Budge:

Enclosed please find the copy of the Contract of Sale of Real Estate submitted with the Don and Richard Gilbert transfers. We were unable to accept this document as proof of ownership for the decreed waters of George M. and Mary E. Smith on Densmore and Birch Creeks because it was not signed or notarized. Furthermore, this sales contract states the Gilbert's own "30 miner's inches of waters of Densmore Creek and 20 miner's inches of waters of Birch Creek," while the decreed water rights in question are for 60 miner's inches from Densmore Creek and 40 miner's inches from Birch Creek. If the Gilberts are purchasing a portion of the original rights, new applications for transfer will have to be submitted.

Therefore, we will delay processing of the applications until we receive proof of ownership for all of the two rights in question, or if the Gilberts are purchasing only a portion of the original rights please submit two new applications for transfer, completing Sections A, B and C, along with proof of ownership. Please note that the rate of application for the irrigation water as described in Section C should be equal to the original rate of application as described in Section A.

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

Very truly yours,

ERNEST M. CARLSEN
Water Resource Agent

EMC:cw

Enclosure

RECEIVED

WALLACE M. TRANSTRUM
RANDALL C. BUDGE

RECEIVED
OCT 30 1977

Transtrum & Budge, Chartered

A Professional Corporation

Attorneys at Law

A. BRUCE LARSON

Department of Water Resources
Eastern District Office

December 29, 1977

240 So. Main - Suite A - Telephone 208-547-3944
P.O. Box 833 - Soda Springs, Idaho 83276

State of Idaho
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401
Attention: Ernest M. Carlsen

RE: APPLICATIONS FOR TRANSFER NO. 11-0554 and 11-0549

Enclosed please find the above-captioned applications for transfer of water right which we are submitting on updated forms. Also enclosed is a copy of a Contract of Sale of Real Estate to verify proof of ownership of the two rights in question. The original of this contract is held in escrow with Idaho First National Bank at Soda Springs, Idaho.

Also enclosed for filing are two (2) claims to a water right for the remaining 160 acres which could not be covered by the decreed rights, together with a check in the amount of \$20.00 for filing fees.

Thank you for your assistance and cooperation in regards to completion of these applications and filing of the additional claims. Please direct all notices and inquiries in regards to the applications and claims to this office as attorneys for Don W. Gilbert and Richard W. Gilbert.

Very truly yours,

Randall C. Budge

Randall C. Budge

RCB/csj
Enclosures
cc: Don Gilbert

Microfilm

December 20, 1977

Transfer No. 11-0554 and 11-0549

Don W. Gilbert &
Richard W. Gilbert
Grace, Idaho 83241

Gentlemen:

Attached herewith is departmental receipt No. 10206 in the amount of \$60.00 for the above referenced applications for transfer.

We neglected to attach your receipt when we returned the new applications.

Very truly yours,

ERNEST M. CARLSEN
Water Resource Agent

EMC:CW

Attachment

RECEIVED
DEC 22 1977
FBI - IDAHO



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

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

C. Stephen Allred
Director

December 14, 1977

RE: Applications for Transfers No. 11-0554 and 11-0549

Don W. and Richard W. Gilbert
Grace,
Idaho 83241

Gentlemen:

Enclosed you will find copies of the applications for transfer of water right concerning decreed rights on Densmore Creek and Birch Creek, received in this office on December 13, 1977. Also, enclosed are two other applications for transfer, partially completed in our office from the information you provided on the original documents.

These two applications are being forwarded to you as the original applications were submitted on outdated forms, and Item C-2a, describing the proposed and/or current place of use, on each application has to be completed. We could not accept the description provided on the original applications because it would constitute an expansion of each right. Therefore, in completing this portion of each transfer please indicate the section number and the number of acres in those 40-acre subdivisions to which the right will be appurtenant, making sure the total irrigated acreage does not exceed the figure penciled in on the right side. Both applicants will then need to sign the applications in the presence of a notary. Return the applications to this office along with a warranty deed or other legal document verifying proof of ownership for the two rights in question.

Since the original applications indicate 260 acres of irrigated land and only 100 acres can be covered by the decreed rights, it would be to your benefit to file a claim to water right for the remaining 160 acres, provided the land was irrigated prior to May 20, 1971. If this is not the case, then you should file an application for permit. A Department representative would be happy to assist you in this matter should you visit our office.

It has been a pleasure to assist you and if you have any questions concerning the completion of the applications for transfer of water right, please feel free to contact me.

Respectfully submitted,

Ernest M. Carlsen

ERNEST M. CARLSEN
Water Resource Agent

EMC:cw
Enclosures

MICROFILMED

TRANSFER ANALYSIS SHEET

1. Source Birch Creek.

Name Lilbert

2. Right Being Transferred

Right No. _____

a. ☒ Decree

Transfer No. _____

☐ License

☐ Use

b. ☒ Priority

c. ☒ Location - Original P.D.

d. ☒ " - Original P.U.

e. ☒ " - New P.D.

f. ☒ " - New P.U.

g. ☒ Amount

☒ All

☐ Part

3. yes. 1/2 Proof of Ownership of Right

Comment For explanation see cover letter from Mr. Budge dated February 3, 1978.

4. No Expansion of Right

Comment NO increase in the R or average.

5. ☒ Map

6. ☒ Signature

7. ☒ Fee

8. Watermaster's Comments _____

9. Comments _____

10. Initial Review by Ernest M. Carlson. Date 1/3/78

11. Recommended Action

☒ Approve

☐ Deny

☒ Conditions Measuring device, Control of W.M.

BY RDC

DATE 5/24/78

RECEIVED

Copy Sent