

Transfer No. 71738
Receipt No.S027338

CORRECTED

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

1. Applicant Information EDWIN R SMITH
44 DRY GULCH
HANSEN ID 83334
(208)423-9117
And
VALERIE A SMITH
44 DRY GULCH
HANSEN ID 83334
(208)423-9117

Will this transfer result in an ownership change? No

2. Current Water Right

	Origin/Basis	Rate	Volume	Acre Limit	Part 2 Attached for Each Right	
					Total Acres	Source
47-177E	AJC/Decreed	0.26			28.3	ROCK CREEK
47-16640E	AJC/Decreed	0.43			28.3	ROCK CREEK
47-2296B	AJC/License	0.12	36.0	9.0	28.0	GROUND WATER
47-7409B	AJC/License	0.03	12.7	4.4	28.0	GROUND WATER

3. Purpose of Transfer (Change Proposed)

Part 3A Attached for Each Proposed Right
Part 3B Attached for Each Split Right

Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
47-177E	NO	YES	YES	NO	NO	NO
47-16640E	NO	YES	YES	NO	NO	NO
47-2296B	NO	YES	YES	NO	NO	NO
47-7409B	NO	YES	YES	NO	NO	NO

Describe the reason for the proposed changes

A parcel of land we own a few miles west of Filer is being dried up so that 9 acres of ground water can be moved to our property along Rock Creek. A new well be drilled on the Rock Creek land to supplement our Rock Creek rights so that some pasture can continue to be irrigated once the surface rights are cut off by the watermaster. The canal shares on the Filer place have been moved to other land we own, and we have signed our wastewater claim there over to the TFCC, with an agreement that no water from any source would be used to irrigate that parcel. Also to clarify my present points of diversion on Rock Creek; I no longer use the old headgates & ditches.

4. FOR CHANGES IN NATURE OF USE ONLY

A. Describe the expected quantity of the return flows and location of discharge after the proposed change

B. Describe the effects on other water uses resulting from the proposed change

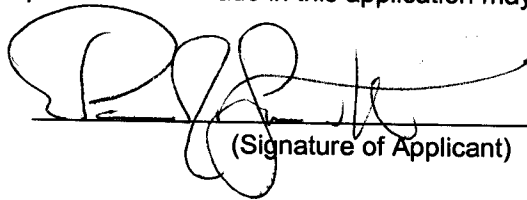
5. Total Amounts Transferred

	Rate	Acre Limit	Total Acres	Volume
47-177E	0.26 cfs		27.0	
47-16640E	0.43 cfs		27.0	
47-2296B	0.12 cfs	9.0	27.0	36.0 af
47-7409B	0.03 cfs	4.4	27.0	12.7 af
TOTAL	0.84 cfs		27.0	108.0 af

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

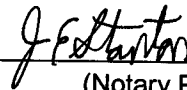
I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.


(Signature of Applicant)

(Title or Office)

Subscribed and sworn to before me this 9th day of January, 2006.




(Notary Public)

My commission expires 10-25-06

Current Water Right No. 47-177E

Tributary: SNAKE RIVER

ROCK CREEK	SWSWSW	Sec. 1	Twp 12S	Rge 18E	TWIN FALLS County
ROCK CREEK	NESESE	Sec. 11	Twp 12S	Rge 18E	TWIN FALLS County
ROCK CREEK	SWSWSW	Sec. 12	Twp 12S	Rge 18E	TWIN FALLS County
ROCK CREEK	SWNWSW	Sec. 13	Twp 12S	Rge 18E	TWIN FALLS County

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1											28.3						28.3

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1																	
												X							

Conditions/Remarks:

1. THIS IS A PORTION OF A47-00177A WHICH WAS SPLIT AS THE RESULT OF AN OWNERSHIP CHANGE OF PART OF THE RIGHT FROM THE ESTATE OF MARIAN L CROCKETT TO EDWIN AND VALERIE SMITH. COPY OF PERSONAL REPRESENTATIVES DEED SUBMITTED WITH FORM. 9/2/99 jr

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 47-16640E

Priority Date: April 01, 1880
Origin: Adjudication Claim
Basis: Decreed
Status: Active

Source: ROCK CREEK

Tributary: SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
STOCKWATER	1/01 12/31	0.05 CFS		
IRRIGATION	4/01 11/01	0.43 CFS		
	Total Diversion	0.43 CFS		

Source and Point(s) of Diversion:

ROCK CREEK	SWSWSW	Sec. 1 Twp 12S Rge 18E	TWIN FALLS County
ROCK CREEK	NESESE	Sec. 11 Twp 12S Rge 18E	TWIN FALLS County
ROCK CREEK	SWSWSW	Sec. 12 Twp 12S Rge 18E	TWIN FALLS County
ROCK CREEK	SWNWSW	Sec. 13 Twp 12S Rge 18E	TWIN FALLS County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S 18E 1										X							

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S 18E 1																	28.3

Total Acres: 28.3

Conditions/Remarks:

1. THIS RIGHT WAS PREVIOUSLY CLAIMED AS A47-00116A, WHICH HAS BEEN RENUMBERED AND AMENDED TO DESCRIBE THE ACTUAL USAGE TODAY. OWNERSHIP CHANGE FROM MARIAN L CROCKETT TO ESTATE OF MARIAN L CROCKETT, C/O DAVID AND/OR PAUL CROCKETT. COPY OF APPLICATION FOR INFORMAL PROBATE OF WILL AND APPOINTMENT OF CO-PERSONAL REPRESENTATIVES SUBMITTED. 1/7/98 jr THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 47-00116 (PART) AND 47-00117.

***** THIS IS A PORTION OF A47-16640A WHICH WAS SPLIT AS THE RESULT OF AN OWNERSHIP CHANGE OF PART OF THE RIGHT FROM THE ESTATE OF MARIAN L CROCKETT TO EDWIN AND VALERIE SMITH. COPY OF PERSONAL REPRESENTATIVES DEED SUBMITTED WITH FORM. 9/2/99 jr

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

Current Water Right No. 47-2296B

Priority Date: October 13, 1955
Origin: Adjudication Recommendation
Basis: License
Status: Active

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/01 10/31	0.12 CFS	36.0 AFA	
	Total Diversion	0.12 CFS	36.0 AFA	

GROUND WATER NENW Sec. 16 Twp 10S Rge 15E TWIN FALLS
County

[illegible]

Total Acres: 28

1. This right is limited to the irrigation of 9 acres within the place of use described above in a single irrigation season.
2. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. **USE OF THIS RIGHT WITH RIGHT NO. 47-7409B IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.15 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 36 AF.**
4. Use of this right with right no. 47-7409B is limited to the irrigation of a combined total of 9 acres in a single irrigation season.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.

6. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
7. This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use without the approval of the Department.
8. Failure of the right holder to comply with the conditions of transfer 4694 is cause for the Director to rescind approval of the transfer.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?
NO

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

Land will not be irrigated.

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?
NO

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 47-7409B

Priority Date: August 29, 1984
Origin: Adjudication Recommendation
Basis: License
Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/01 10/31	0.03 CFS	12.7 AFA	
	Total Diversion	0.03 CFS	12.7 AFA	

Source and Point(s) of Diversion:

GROUND WATER NWNW Sec. 16 Twp 10S Rge 15E TWIN FALLS
County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S	15E	16					10.0	18.0											28.0

Total Acres: 28

Conditions/Remarks:

1. USE OF THIS RIGHT WITH RIGHT NO. 47-2296B IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.15 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 36 AF.
2. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. This right is limited to the irrigation of 4.4 acres within the place of use described above in a single irrigation season.
4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.

6. Use of this right with right no. 47-2296B is limited to the irrigation of a combined total of 9 acres in a single irrigation season.
7. This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use without the approval of the Department.
8. Failure of the right holder to comply with the conditions of transfer 4694 is cause for the Director to rescind approval of the transfer.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

Proposed Water Right No. 47-177E

Source: ROCK CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	4/01	10/31	0.26 CFS		
STOCKWATER	1/01	12/31	0.05 CFS		
	Total Diversion		0.26 CFS		

ROCK CREEK NENWSW Sec. 1 Twp 12S Rge 18E TWIN FALLS
County

ROCK CREEK NWSWSW Sec. 1 Twp 12S Rge 18E TWIN FALLS
County

Point of Diversion # 1 Access to Rock Creek for cattle watering
Point of Diversion # 2 15 hp motor, pump, mainline to sprinklers

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
12S	18E	1										24.0	3.0						27.0

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1										X							

Proposed Water Right No. 47-16640E

Priority Date: April 01, 1880
Origin: Adjudication Claim
Basis: License
Status: Active

Tributary: SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
STOCKWATER	1/01	12/31	0.05 CFS		
IRRIGATION	4/01	11/01	0.43 CFS		
	Total Diversion		0.43 CFS		

ROCK CREEK NENWSW Sec. 1 Twp 12S Rge 18E TWIN FALLS
County

ROCK CREEK NWSWSW Sec. 1 Twp 12S Rge 18E TWIN FALLS
County

Point of Diversion # 1 Access to Rock Creek for cattle watering
Point of Diversion # 2 15 hp motor, pump, mainline to sprinklers

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1										X							

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
12S	18E	1										24.0	3.0						27.0

Total Acres: 27

Proposed Water Right No. 47-2296B

Source: GROUND WATER

Source and Point(s) of Diversion:

Describe the proposed diversion system

Point of Diversion # 1 New well to be drilled, motor (probably 7.5 hp), pump, mainline to sprinklers

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1											24.0	3.0					27.0

Total Acres: 27

Proposed Water Right No. 47-7409B

Source: GROUND WATER

Source and Point(s) of Diversion:

Describe the proposed diversion system

Point of Diversion # 1 New well to be drilled, motor (probably 7.5 hp), pump, mainline to sprinklers

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
12S	18E	1										24.0	3.0						27.0

Total Acres: 27

NW/SW Sec. 1
T. 12S R. 18E

Proposed PPU - Ed Smith

T71738

Stock
POD

Rock
Creek

Pump

Well



From 28371

to 37272

34-11-18

E $\frac{1}{2}$

COPY

AGREEMENT

THIS AGREEMENT is made and entered into this 15 day of April, 2004, by and between **TWIN FALLS CANAL COMPANY**, an Idaho Corporation, (hereinafter referred to as "TFCC"), and **EDWIN R. SMITH and VALERIE A. SMITH**, husband and wife, (hereinafter collectively referred to as "Smith").

erm TRANS.

-8-01

n: 16-10-15

1 NW
reels

3, 4, 5

WITNESSETH

WHEREAS, Smith desires to transfer water represented by 20 shares of TFCC water to another parcel they own, said water to be transferred from Headgate 3HL, Lateral 17A, Gate 06, where it is now diverted, (said water being appurtenant to 20 acres of parcels 1, 3, 4, and 5 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 10 South, Range 15, East of the Boise Meridian, Twin Falls County) to be transferred to 2HL, Tap 4.5, Gate 01, (and to be made appurtenant to a total of 20 acres of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 11 South, Range 18, East of the Boise Meridian, Twin Falls County) said transferor and transferee acres as specifically identified by Smith; and

WHEREAS, Smith claims a water right to wastewater in TFCC's system (No. 47-4283 in the amount of .82 cfs) part of which can be used to water the same land as the TFCC shares and water is presently appurtenant; and

WHEREAS, the transfer of said 20 shares would be in violation of TFCC's Regulations and Prohibitions because Smith will get wastewater from the TFCC system whether the stock is appurtenant or not; and

WHEREAS, Smith will assign Wastewater License No. 47-4283 to TFCC as an enticement to transfer said 20 TFCC shares.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. **Assignment.** Smith will assign all right, title and interest in wastewater filing No. 47-4283 to TFCC.
2. **Covenant.** Smith covenants that in consideration of the transfer of 20 shares of TFCC water to 20 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 11 South, Range 18 East of the Boise Meridian, Twin Falls County, Idaho, Smith shall dry 20 acres as specifically described from the property described as parcels 1, 3, 4 and 5 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 10 South, Range 15 East of the Boise Meridian, Twin Falls County, and not irrigate the same with water represented with Twin Falls shares, wastewater within the Twin Falls System or any ground water source.

Transfer. Upon receipt of an Assignment of Right No. 47-4283, TFCC shall approve the transfer of 20 shares from Headgate 3HL, Lateral 17A, Gate 06, said water being appurtenant to 20 acres of parcels 1, 3, 4, and 5 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 10 South, Range 15 East of the Boise Meridian, Twin Falls County, to 20 acres of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 11 South, Range 18 East of the Boise Meridian, Twin Falls County at 2HL, Tap 4.5, Gate 01.

4. **Covenant.** This Agreement shall be a covenant running with the land prohibiting the irrigation of said 20 acres specifically described in Parcels 1, 3, 4, and 5 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 10 South, Range 15, East of the Boise Meridian, Twin Falls County with water from the Twin Falls irrigation system or any ground water or wastewater source.

5. **Binding.** This Agreement and shall be binding on the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in triplicate and placed their seals hereto the day and year first set forth above.

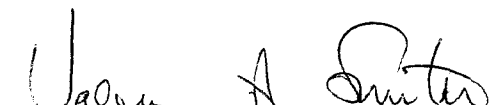
"TFCC"

TWIN FALLS CANAL COMPANY

By: 
Authorized Agent

"SMITH"


EDWIN R. SMITH


VALERIE A. SMITH