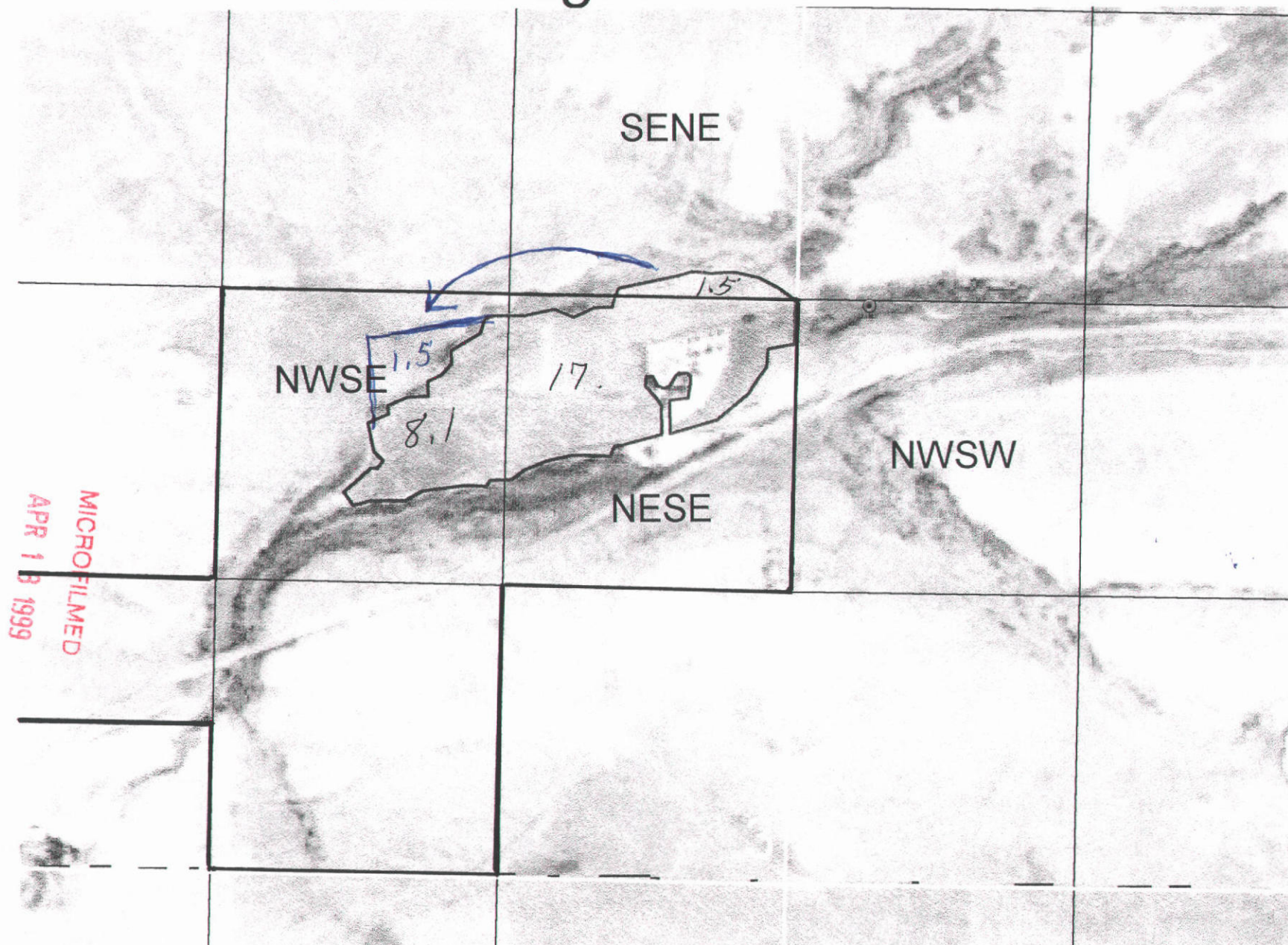


T03S R07E

Water Right No. 61-00272

ATTACHMENT A



17h

Affidavit of Publication

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT,
TRANSFER NO. 5385**

Notice is given that **ROSALIE AND DELMAR FOSTER** of HC 87 Box 14, Mountain Home ID 83647 have applied to the Department of Water Resources to change the place of use and point of diversion pursuant to I.C. § 42-222 for the following decree recorded in T3S R7E as follows in Elmore County:

61-00272, priority 5/1/1880, .52 cfs, diverted from Rattlesnake Creek tributary to the Snake River in NESE for unspecified acres irrigation in S1/2 S3.

The Snake River Basin Adjudication claim was filed as decreed except diverted in NWNWSW S2 for 26.6 acres irrigation in E1/2 S3.

PROPOSED CHANGE

Clarify diversion point as NWNWSW S2 and remove irrigated acres from public land in SENE to private land in NWSE S3. No increase in diversion rate or acres proposed.

Any protest against approval of the proposed change must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705-5082, together with a protest fee of \$25 on or before February 22, 1999. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

First Publication February 3, 1999.

Last Publication February 10, 1999.

County of Elmore } ss.
STATE OF IDAHO }

I, Coleen W. Swenson, do solemnly swear that I am the foreman, or publisher of the

Mountain Home News

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of publication thereof; was published in said newspaper for

2 consecutive weeks, the first publication having been made on 3rd day of

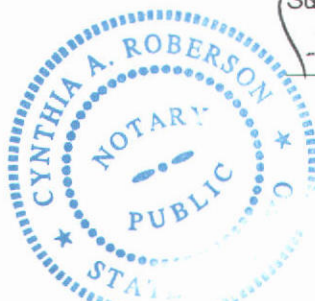
February 1999, and the last publication having been made on the 10th day of February 1999; every Wednesday

issue of the paper during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Coleen W. Swenson

Subscribed and sworn to me this 10th day of February, 1999



Cynthia Roberson
Notary Public

RECEIVED

FEB 12 1999

WATER RESOURCES
WESTERN REGION

MICROFILMED

APR 13 1999

Residing in Mountain Home, Elmore County, Idaho. My commission expires 09-09-2002.

IDAHO DEPARTMENT OF WATER RESOURCES
PREFIX/SPLIT QUERY

DATE: 04/12/99

TIME: 13:35:01

PAGE: 1

WATER RIGHT NO.	NAME	OWNER	PRIORITY	DATE	STG/STS	SOURCE	USE DESC	SYSTEM
61-00272	MOSS, JAMES T.	C		05/01/1880	D/	RATTLESNAKE CREEK	IRR	WR
X61-00272	FOSTER, ROSALIE S	C		05/01/1880	D/	RATTLESNAKE CREEK	IRR	WR
	FOSTER, DELMAR	C						

61-00272	FOSTER, ROSALIE S	C		05/01/1880	D/	RATTLESNAKE CREEK	IRR	AJ
	FOSTER, DELMAR	C						
A61-00272	FOSTER, ROSALIE S	C		05/01/1880	D/	RATTLESNAKE CREEK	IRR	AJ
	FOSTER, DELMAR	C						

"X" prefix
for approval

MICROFILMED

APR 13 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5385
WATER RIGHT NO. 61-00272

This is to certify that: **ROSALIE S FOSTER**
DELMAR FOSTER
HC 87 BOX 14
MOUNTAIN HOME ID 83647

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	* 05/01 to 10/01	0.52 CFS	106.4 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
RATTLESNAKE CREEK	SNAKE RIVER

Priority: 05/01/1880

LOCATION OF POINT(S) OF DIVERSION: NWSW , Sec. 2, Township 03S, Range 07E
ELMORE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S	07E	3	NESE 17.0	NWSE 9.6		26.6
Total number of acres irrigated:						26.6

CONDITIONS OF APPROVAL AND REMARKS

1. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

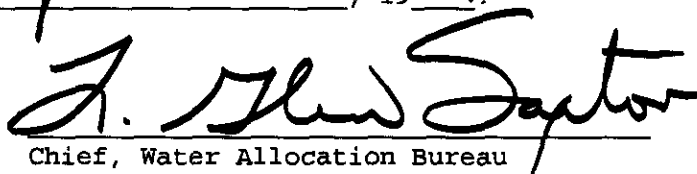
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APR 13 1999

TRANSFER NO. 5385
WATER RIGHT NO. 61-00272

CONDITIONS OF APPROVAL AND REMARKS

- * 5. The use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before May 1 and after October 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
- 6. All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Dated this 12th day of April, 1999.


Chief, Water Allocation Bureau

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APR 13 1999

Page 1 of 6

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Transfer No. 5385

RECEIVED

MAR 30 1999

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED

DEC 29 1998

Department of Water Resources

WATER RESOURCES
WESTERN REGIONName of applicant ROSALIE S. FOSTER DELMAR FOSTER Phone 208 587 4194Post Office address HC 87 Box 14 Mtn. Home, Idaho 83647

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To take one and one half acres of irrigated land that is on BLM ground and transfer to private land.

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

- | 1. Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|-----------------|------------|--------------------|---------------|----------------|
| 61-00272 | 05/01/1880 | 0.524 CFS | Irrigation | 05-01 to 10-01 |
| | | | | to |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 0.524 CFS (20) cubic feet per second and/or 0.524 acre-feet per annum.
3. Source of water Rattle Snake Creek tributary to Snake River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
2	NW	NW	SW	02	03S	07E	Elmore	Rosalie S. Foster Delmar Foster

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03S	07E	03													17	9.6			26.6

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APR 13 1999

Total acres

PART 1

6 General Information:

a Description of diversion system Diversion is out of creek into eight inch pipe.

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

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Will go back to dry land pasture on BLM.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

Witness my hand this _____ day of _____, 19 _____.

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APR 13 1999

PART 2

TRANS NO.

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 61-00272

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	05/01 to 10/01	0.52 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
RATTLESNAKE CREEK	SNAKE RIVER

Priority: 05/01/1880

LOCATION OF POINT(S) OF DIVERSION: NESE , Sec. 3, Township 03S, Range 07E
ELMORE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S 07E 3	SESW	NESE	NWSE	
	SWSE			

CONDITIONS/REMARKS:

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APR 13 1999

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1 Right evidenced by:

- a Decree No _____ Decreed to _____
in case of _____ vs _____
dated _____ in _____ county of _____
- b License No _____ issued by the Idaho Department of Water Resources.
- c Claim No. _____ on file with the Idaho Department of Water Resources
- d Transfer No _____ which produced this right.

2 Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership Label document as attachment A Check appropriate box below

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3 Source of water _____ tributary to _____

4 Date or priority _____

5 Water is used for the following purpose

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6 Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum

7 Point(s) of Diversion

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

8. Lands irrigated or place of use.

Twp	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

MICROFILMED

Total acres _____

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

APR 13 1999

PART 2

Transfer No _____

- 10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
N If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

- 1 amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

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

- 1 amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2 Point(s) of Diversion

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

3 Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

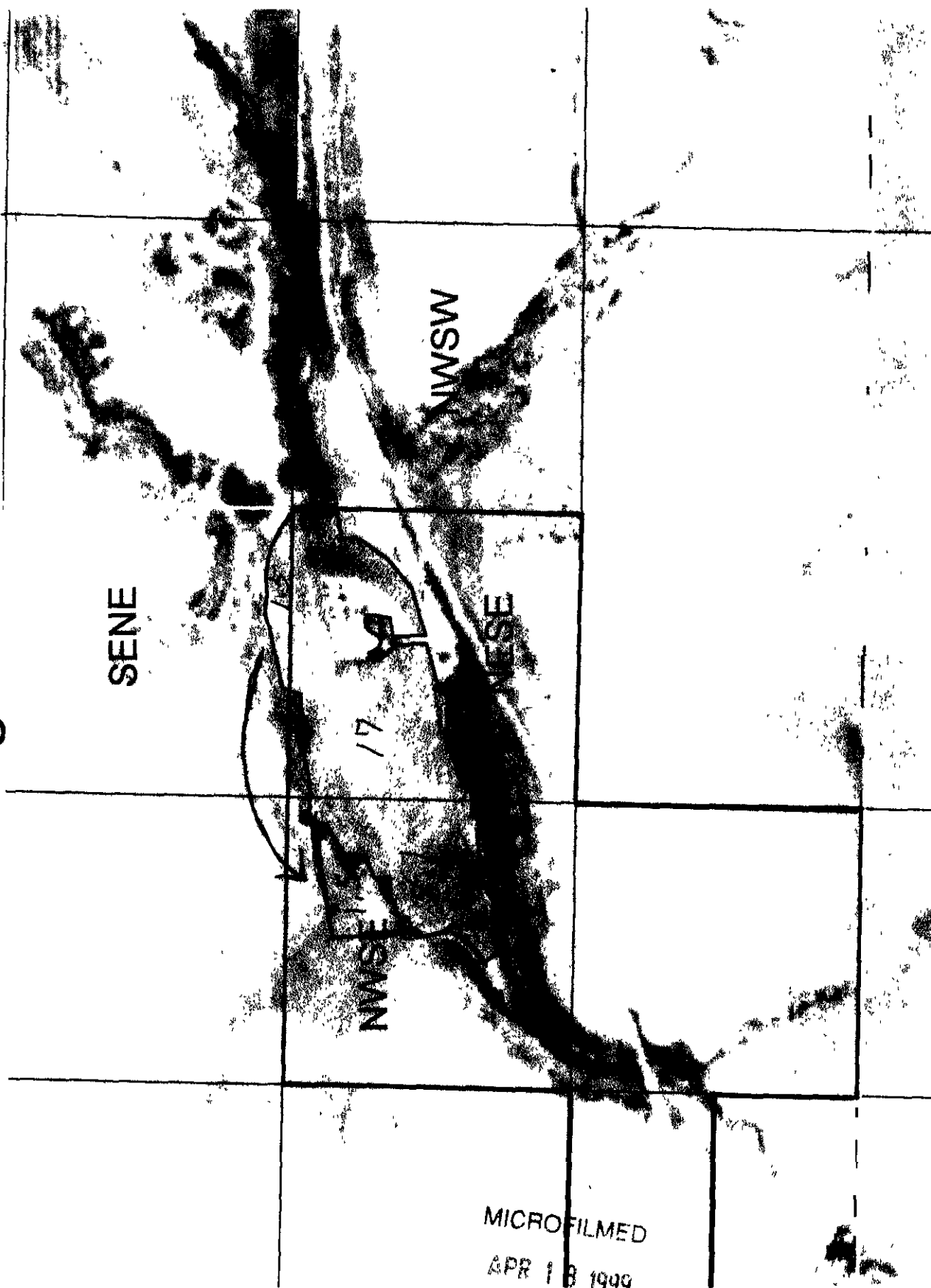
MICROFILMED
APR 13 1999

Total acres _____

ATTACHMENT A

Water Right No. 61-00272

T03S R07E



MICROFILMED
APR 18 1999

Map prepared by Jeff Peppersack
Date prepared December 10, 1998
Photograph 1987-88 NAPP

• Point of Diversion
□ Place of Use

400 0 400 800 Feet

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

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

SEE ATTACHED

MICROFILMED

APR 13 1999

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

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

2. Quantity and quality of return flows and location of discharge:

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

None

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.

Delmar Gaster

(Signature of Applicant)

Subscribed and sworn to before me this 28th day of December, 19 98.Charles K. Curtis

(Notary Public)

My commission expires 10-6-2006**FOR DEPARTMENT USE ONLY**Transfer contains 6 pages and 3 attachmentsReceived by SC Date 12/28/98 Protest filed by _____Prelim. check by SC Fee 100⁰⁰Receipted by SC Date 12/28/98 0044209Published in Mtn Home News Copies of protest forwarded by _____Pub. dates 2-4-11-99 Hearing held by _____ Date _____Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MICROFILMED
APR 13 1999

RIGHT NUMBER 61-00272

NAME AND ADDRESS. ROSALIE S FOSTER
DELMAR FOSTER
HC 87 BOX 14
MOUNTAIN HOME ID 83647

SOURCE RATTLESNAKE CREEK TRIBUTARY SNAKE RIVER

QUANTITY 0.524 CFS

PRIORITY-DATE 05/01/1880

POINT OF DIVERSION T03S R07E S02 NWNWSW Within ELMORE County

PURPOSE AND

PERIOD OF USE	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		05-01 10-01	0.524 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED THE USE OF WATER BEFORE MAY 1 AND AFTER OCTOBER 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within ELMORE County
T03S R07E S03 SENE 1.5 NESE 17 NWSE 8 1
26.6 ACRES TOTAL

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 61.

WATER RIGHT NO	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY

EXPLANATORY MATERIAL

BASIS OF CLAIM - DECREE
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE

MICROFILMED
APP 13 1999

ATTACHMENT B

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

December 23, 1998

Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise Idaho 83720 - 0098

Subject. Transfer of Water Rights for 61-00272

Dear Sir,

Mrs. Roalie S. Foster of Mountain Home, Idaho has been irrigating 1.5 acres of public lands located on the SE1/4, NE1/4, T3S, R7E, Sec 2. This was discovered when a survey was conducted 2 years ago. Since then Mrs. Foster has been attempting to correct the fence lines and irrigation boundaries. The BLM has no permits or use of the agricultural water on this land and would recommend the transfer the Place of Use of the 1.5 acres of irrigation water rights off of public lands at this location, on to private lands. Mrs. Foster has agreed to rehabilitate the area, by seeding a rangeland seed mix into the existing alfalfa field that was irrigated

If you have any questions regarding these issues, please call Gary A. Madenford at (208) 373-3828



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APR 13 1999

ATTACHMENT C

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR
BLAINE COUNTY.

Commodore Jackson, Seth Heath,	)	
Charles H. Lamberton, James T. Moss,	)	
Sarah Ann Hoffman, and J. G. Watts,	)	
Trustee,	)	
	)	
Plaintiffs.	)	
	)	
vs.	)	
	)	
J. M. Cowan, Frank Filley, L. Z.	)	
Haverkubdm Sherman Baldwin Bernice	)	
P. Kief and John Kief, her husband	)	
Taylor L. Bailey,	)	
	)	
Defendants.	)	

And now this cause coming on to be heard upon the findings of fact and conclusions of law hereinbefore made, and the Court being fully advised in the premises, it is ordered, adjudged and decreed:

I.

That the plaintiff Commodore Jackson be, And he is hereby, awarded the use of the amount of water hereinafter stated from the waters of Rattle Snake Creek, in each year from the following dates, to be diverted at the following points, to wit:

For use upon lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, of Section 1, township 3 south, range 7 east, Boise Meridian, that portion of the W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 1, said township and range, lying west of the following described line:- commencing at a point on the township line 830 feet east of the quarter section corner, between sections 1 and 36 and running south at right angles with said township line 930 feet to a point; then west at right angles to the south line and parallel with the township line 150 feet to the south or left bank of Rattle Snake Creek, thence south at right angles with the township line to a point on the east and west center line of section 1, aforesaid. Also that tract of land described as follows: commencing at a point 826 feet south of the north east quarter of said section 1, thence in a westerly direction along an irrigation ditch known as the Black ditch 790 feet, thence due south to the east and west center line of said

of Rattle Snake Creek, in each year from the following dates to be diverted at the following points, to wit:

For use upon lots 2, 3, 4, and the $S\frac{1}{2}$ NW $\frac{1}{4}$, $S\frac{1}{2}$ NE $\frac{1}{4}$, of Section 2 Township 3 south, range 7 east, Boise Meridian.

87 inches dating from May 1, 1875.

61 0271

To be diverted at a certain point on said Rattle Snake Creek from which said point the quarter section corner common to sections one and two, township 3 South, range 7 east, Boise Meridian, bears south $2^{\circ} 20'$ west 1500.

IV.

That the plaintiff James T. Moss be, and he is hereby awarded the use of the amount of water hereinafter stated from the waters of Rattle Snake Creek, in each year from the following dates to be diverted at the following points, to wit:

For use upon the $N\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, $N\frac{1}{2}$ SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 3, township 3 south, range 7 East, Boise Meridian.

26.2 inches dating from May 1, 1880.

61 0272

To be diverted at a point on said Rattle Snake Creek from which said point the quarter section corner common to sections 2 and 3, townships 3 south, range 7 east, Boise Meridian, bears south $89^{\circ} 49'$ west 704 feet.

V.

That the plaintiff Sarah An Hoffman be and she is hereby awarded the use of the amount of water hereinafter stated from the waters of Rattle Snake Creek, in each year from the following dates to be diverted at the following points, to wit:

For use upon the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, and the $S\frac{1}{2}$ SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, Sec. 3, township 3 south, range 7 east, Boise Meridian.

24.57 inches dating from May 1, 1890.

61 0273

At a point on said Rattle Snake Creek from which said point the quarter section corner common to section two and three, township 3 south, range 7 east, Boise Meridian, bears north $60^{\circ} 12'$ east, 4444 feet.

JUN 1 91 90

XVI.

That the several parties hereto whose rights to the use of the waters of said Rattle Snake Creek are of even date, shall, whenever the amount of water flowing in said channel or stream is insufficient in quantity to supply the amount of water herein awarded, share in the use of the water in the proportion that the several quantities of water of the same date bears to the whole quantity flowing in said stream at said time of scarcity, not, however, to interfere with the rights of any earlier or prior rights.

XVII.

It is further ordered, adjudged and decreed that each and every of the plaintiffs and defendants, their servants, attorneys, employees, privies and successors in interest, are hereby enjoined and restrained from any and all interference with, or diversion or use of the waters of said Rattle Snake Creek except as provided in this decree, whenever such interference, diversion or use would in any manner interfere with the quantity of water awarded by this decree to any of the other parties of this action or to which, under the terms of this decree, they are entitled.

XVIII.

That the costs and disbursements of each party, hereto shall be paid by each such party.

Dated May 29th, 1917.

James R. Bothwell,

District Judge.

Filed this 31 day of May 1917.

F. M. Hobbs.

Clerk District Court.

JUN 1 9 12 36

MICROFILMED

APR 13 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

April 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ROSALIE S FOSTER
DELMAR FOSTER
HC 87 BOX 14
MOUNTAIN HOME ID 83647

RE: Water Right 61-00272 (Transfer 5385)

Dear Mr. & Mrs. Foster:

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 5385). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

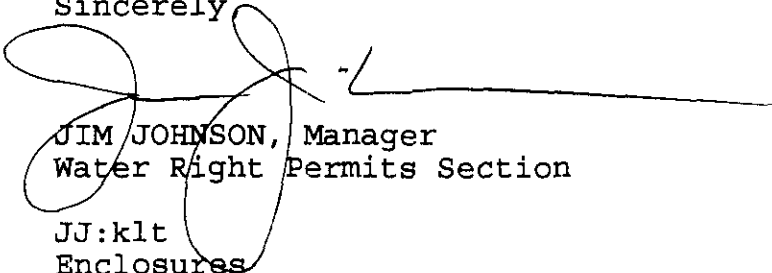
As of July 1, 1996, all water right owners are required to report any change in water right ownership and any change of mailing address to the department.

If you have acquired any other water right or have changed your mailing address **PRIOR TO** July 1, 1996, you have until July 30, 1998, to record the ownership and/or address change with the department.

If you acquired other water rights or changed your mailing address **AFTER** July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes in a timely manner could result in a \$100 late filing fee. You can contact any office of the department for more information. If you have any questions concerning your water right listed above you can contact me at (208) 327-7947.

Sincerely



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt
Enclosures

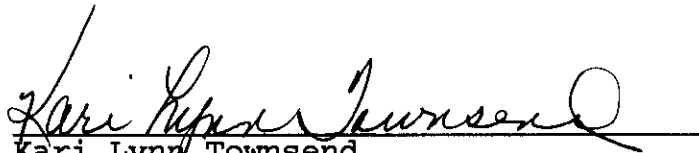
MICROFILMED
APR 13 1999

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of **April, 1999**, I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

WATER RIGHT 61-00272090B (Transfer 5385)

**ROSALIE S FOSTER
DELMAR FOSTER
HC 87 BOX 14
MOUNTAIN HOME ID 83647**


Kari Lynn Townsend
Secretary

MICROFILMED
APR 13 1999

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of, or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: File 61-00272

FROM: Pam Skaggs/^{PS}State Office

SUBJECT: Transfer 5385 *dk*

DATE: April 5, 1999

Transfer 5385 changes the place of use under Right 61-00272. The right was recommended in the SRBA with 1.5 acres on BLM land. To resolve the objection and remove the right from public land this transfer was proposed. The 1.5 acres is moved to other land owned by the applicant.

The right includes a non-standard season (05-01 to 10-01) and special condition regarding subordinated use before (03-15 to 05-01) and after (10-01 to 10-31) the listed season and conjunctive management per the SRBA recommendation. Standard volume was identified and other recommended conditions include future measuring & annual reporting, irrigation overlap and standard transfer conditions.

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TRANSFER REVIEW SHEET

(07-98)

Transfer # 5385

Date Reviewed 04-02-99

Right(s) 61-06272 - SRBA Recommendation

☒ WRQ/Split Summary ☒ SRBA Status ☒ Run POU Comparison Report

B:Change P/D C:Add P/D ☒ D:Change P/U E:Change Nature of Use
F:Change Period of Use G:Other H:Change P/D & Add P/D
I:Change P/D & P/U J:Add P/D & Change P/U

Proof of Ownership BLM Letter 12-23-98 recommending transfer from public lands (Attachment C)

Transfer ☒ All of Right ☐ Portion of Right
Resulting Split(s) None

Check Transfer Against Recorded Right Season/Vol. C/4.0

(1) ☒ Priority (2) ☒ Use (3) ☒ ^{as recommended} Season (4) ☒ Rate (5) ☐ Volume

(6) ☒ Source (7) ☒ P/D (8) ☐ P/U (9) ☒ Proof/Owner (10) ☒ Map

~~to B No WM Inactive Per 3 Short No WD per Stevel. BLM~~
(11) NO Water District (12) Yes Pertinent Conditions (13) NO Expansion per SRBA

(3) Non Standard Season 5-1 to 10-1 instead of 4-1 to 10-31
Special Condition subordinates use 3-15 to 5-1 & 10-1 to 31 } Per SRBA
Total IRR season 3-15 to 10-31

(5) Standard VOL = 4 x 26.6 = 106.4 afa < Vol

(8) 1.5 Acres from SENE to NWSE (8.1 + 1.5 = 9.6 acres)

Transfer Remarks Per SRBA Recommendation
Conditions 01M, R64, T07, T08, T09
Already Recommended

Database/Processing Notes Standard ☐ Non-Standard ☒

Copy approved version to an "X" prefix when approved.

Delete T/Comment to base WR

"T" Files Update Complete ☒ Approval Form ☒ Transfer Memo ☒

Database Updated Following Approval ☒ Memo/Form Files Deleted ☒

4-12-99 CS

(WATER RIGHT NUMBERS THAT BEGIN WITH AN '*' ARE ADJUDICATION CLAIMS)
(QUARTER-QUARTERS WITH A '?' HAVE DIFFERENT ACREAGE AMOUNTS--CHECK THE DATA BASE RECORDS)

WR-NUMBER	SOURCE	NE				NW				SW				SE				SUM
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac			
T03S R07E S 3																		
6100194	RATTLESNAK :																	
6100272	RATTLESNAK :																	
*6100272	RATTLESNAK :																	
A6100272	RATTLESNAK :																	
T6100272	RATTLESNAK :																	
6100273	RATTLESNAK :																	
*6100273	RATTLESNAK :																	
A6100273	RATTLESNAK :																	
A6102021	FAST FREIG :																	
6102203	GROUNDWATE :																	
A6102203	GROUNDWATE :																	
--86 MAP--	C39Q-Z 14 :																	

No One Says

SRBA

SUBCASE SUMMARY REPORT 61-00272

[Return to SRBA Home Page](#)

SRBA
04-02-1999

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 61-00272 FILE#: 00000
CLAIMANT: FOSTER, ROSALIE S
STATUS: UNOBJECTED TO W/R
WATER SOURCE: RATTLESNAKE CREEK, SNAKE RIVER

****** PARTIES INVOLVED ******

ROSALIE S FOSTER	PRO SE
DELMAR FOSTER	PRO SE

****** ROA ENTRIES ******

[Return to SRBA Home Page](#)

IDAHO DEPARTMENT OF WATER RESOURCES
PREFIX/SPLIT QUERY

DATE: 04/02/99

TIME: 13:18:30

PAGE: 1

WATER RIGHT NO.	NAME	OWNER	PRIORITY DATE	STG/STS	SOURCE	USE DESC	SYSTEM
61-00272	MOSS, JAMES T.	C	05/01/1880	D/	RATTLESNAKE CREEK	IRR	WR
T61-00272			05/01/1880	D/	RATTLESNAKE CREEK	IRR	WR

61-00272	FOSTER, ROSALIE S	C	05/01/1880	D/	RATTLESNAKE CREEK	IRR	AJ
	FOSTER, DELMAR	C					
A61-00272	FOSTER, ROSALIE S	C	05/01/1880	D/	RATTLESNAKE CREEK	IRR	AJ
	FOSTER, DELMAR	C					

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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MAR 30 1999

TRANSFER ANALYSIS SHEET

Department of Water Resources

APPLICANT Forster

TRANSFER NO. 5385

INITIAL ALLOCATION REVIEW BY Ly

DATE 1/21/99

1. Right number(s) 01-00272

2. Type of right ☒ Decree ☐ License ☐ Statutory Claim
☐ SRBA Beneficial Use Claim

3. Purpose of transfer ☐ Change P/D ☐ Add P/D ☒ Change P/U
☐ Change N/U ☐ Change Period ☐ Split Right
☐ Other: _____

4. Check Existing Right: ☒ Source ☒ Priority ☒ Amount ☒ Purpose
☒ Period ☒ SRBA Claim
☒ Description of original point(s) of diversion
☒ Description of original place of use
☒ Overlapping rights on original place of use

5. Check Proposed Right for amount of land &/or water transferred:

- a. ☒ Analysis memo (always - unless justify why not needed)
- b. ☒ All of right
- c. N/A Part of right (NOTE! Part B should be filled in only if part of right is owned by the applicant)
- d. ☒ Description of point(s) of diversion
- e. ☒ Description of place of use
- f. ☒ Map showing P/D & P/U after transfer
- g. ☒ Correct notarized signature and \$100 fee
- h. N/A Proof of ownership of right &/or land from which water is transferred
- i. ☒ Expansion in use of right - check rate of flow, diversion volume and consumptive use volume. Comments:

SUPPLEMENTAL STAFF ANALYSIS SHEET

TRANSFER NO. _____

WORDPERFECT FILENAME _____

XFERADV - Foster

COPY FOR WATER RIGHT AND ADJUDICATION FILES

YES LEGAL NOTICE

YES TRANSFER ANALYSIS SHEET (FORM 222a)

YES TRANSFER APPLICATION - ASSUME ENTIRE APPLICATION WITH ATTACHMENTS
(ALWAYS COPY OWNERSHIP INFO) TO BE COPIED UNLESS NOTED BELOW:

I.D. BY LETTER/NUMBER WHICH ATTACHMENTS ARE NOT TO BE COPIED:

YES REVIEWER'S ANALYSIS MEMO DATED _____

1/26/99

____ OTHER ITEMS - I.D. OTHER INFORMATION TO BE COPIED:

AVOID COPYING - excess computer reports, excess attachments unless
show ownership & other clarifying info, easements & other agreements unless
are essential to understanding the application, oversized documents.

**COPIES TO BE MADE AFTER MANAGER'S REVIEW PRIOR TO
FORWARDING FILE TO S.O.**

DISCARD THIS FORM BEFORE FORWARDING FILE

VH

Affidavit of Publication

County of Elmore } ss.
STATE OF IDAHO }

I, Coleen W. Swenson, do solemnly swear that I am the foreman, or publisher of the

Mountain Home News

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of publication thereof, was published in said newspaper for

2 consecutive weeks, the first publication having been made on 3rd day of

February 1999, and the last publication having been made on the 10th day of February 1999, every Wednesday

issue of the paper during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

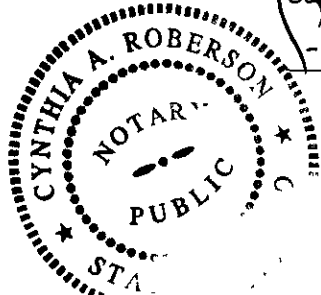
And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Coleen W. Swenson

Subscribed and sworn to me this 10th day of

February 1999

Cynthia Roberson
Notary Public



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Residing in Mountain Home, Elmore County, Idaho. My commission expires 09-09-2002.

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FEB 12 1999

WATER RESOURCES
WESTERN REGION

MEMO

DATE: 1/26/99
FROM: lg
TO: X-Fer File 61-00272
RE: Review

The purpose of this transfer is to resolve an objection filed by BLM against the recommendation of decree no. 61-00272 in the SRBA. This right was decreed for unspecified acres. SRBA recommended 25.1 acres on private land and 1.5 acres on BLM land, all in S3. Of course BLM objected to the 1.5 acres.

BLM is willing to withdraw their objection if irrigation is removed from public land and redistributed to private land, which is the reason for this transfer. BLM submitted the attached land release of water right statement for the 1.5 acres in question.

The P/D change is a clarification and reflects the SRBA recommendations.

61-07337 represents a ground water well and 61-02021 was disallowed. No other rights overlap.

This transfer looks approvable.

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**NOTICE OF PROPOSED CHANGE OF WATER
RIGHT, TRANSFER NO. 5385**

Notice is given that **ROSALIE AND DELMAR FOSTER** of HC 87 Box 14, Mountain Home ID 83647 have applied to the Department of Water Resources to change the place of use and point of diversion pursuant to I.C. § 42-222 for the following decree recorded in T3S R7E as follows in Elmore County:

61-00272, priority 5/1/1880, .52 cfs, diverted from Rattlesnake Creek tributary to the Snake River in NESE for unspecified acres irrigation in S $\frac{1}{2}$ S3.

The Snake River Basin Adjudication claim was filed as decreed except diverted in NWNWSW S2 for 26.6 acres irrigation in E $\frac{1}{2}$ S3.

PROPOSED CHANGE

Clarify diversion point as NWNWSW S2 and remove irrigated acres from public land in SENE to private land in NWSE S3. No increase in diversion rate or acres proposed.

Any protest against approval of the proposed change must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705-5082, together with a protest fee of \$25 on or before February 22, 1999. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Mountain Home News on February 4 and 11, 1999.

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APR 13 1999