61-0349

Right Side (or)

Corres. Side of file.

In Chronological Order from Most Recent Date of 6/14/05 to Oldest Date of 1/31/00.

All Documents are in Relation to Transfer # 68533

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 14, 2005

ROCKY MOUNTAIN LAND & CATTLE LLC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Transfer No.: 68533 - Water Rights 61-353, 61-349, 61-356, 61-357, 61-2242, 61-2243 61-7231, 37-20344 - Transfer Approval Notice

Dear Water Right Holder(s):

Enclosed please find the enclosed Approval Document for Transfer No. 68533 subject to the conditions of the Preliminary Order dated January 31, 2005 which has become final in the matter of Application for Transfer 68533.

If you have any questions, please contact me at 208-287-4948.

Sincerely,

for Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

SCANNED

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 68533

WATER RIGHTS 61-353, 61-349, 61-356, 61-357, 61-2242, 61-2243, 61-7231, 37-20344

ROCKY MOUNTAIN LAND & CATTLE LLC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

Kari Lynn Townsend
Secretary

SCANNED

T 68533

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

RETURN TO SENDER
LN055

☐ MOVED LEFT NO ADDRESS
☐ ATTEMPTED NOT KNOWN
☐ UNCLAIMED ☐ REFUSED
☐ NO SUCH STREET ☐ NUMBER
☐ BOX CLOSED NO ORDER
☐ INSUFFICIENT ADDRESS ☐ VACANT
☐ NO MAIL RECEPTACLE
☐ DO NOT REMAIL WITH THIS ENVELOPE
☐ NOT DELIVERABLE AS ADDRESSED
☐ UNABLE TO FORWARD

RESUME FIRST CLASS

Boise APR 1995 RECEIVED ID 83720 METER 7144845 U.S. POSTAGE 0278

APR 26 2005

DEPARTMENT OF WATER RESOURCES

GEORGE L PRESLEY
~~RT 1 BOX 12~~
KING HILL ID 83633

6688 E. Montgomery Rd

[redacted]

T 68533

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

RETURN TO SENDER
LN055

☐ MOVED LEFT NO ADDRESS
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RESUME FIRST CLASS

Boise APR 1995 RECEIVED ID 83720 METER 7144845 U.S. POSTAGE 0278

APR 22 2005

Department of Water Resources

JOHN WALKER
~~RT 1 BOX 9~~
KING HILL ID 83633

4775 E. Montgomery Rd

[redacted]

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 1198

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 68533 IN THE NAME OF ROCKY MOUNTAIN LAND AND CATTLE, LLC	**PETITION FOR RECONSIDERATION**

The purpose of this Petition for Reconsideration is to focus on the amounts of irrigated acreage. So far as we are aware, virtually the same acreage that is presently irrigated has been irrigated since many years prior to 1987. To our understanding, there is no proposal to change the acreage irrigated and we ought to be able to come to a satisfactory conclusion as to what that acreage really is. We do not accept that a mistake in a spreadsheet renders the information not credible; it may require the mistake to be corrected. Why couldn't the map analyzers get together and review the discrepancies or areas of concern and see if they can agree on the number of acres within each quarter-quarter section historically irrigated, both for the purpose of this transfer proceeding and the SRBA processing?

DATED this 15th day of February, 2005.

HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

Kent W. Foster, Esq.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

DOCUMENT SERVED: PETITION FOR RECONSIDERATION

ATTORNEYS SERVED:

[Facsimile & First Class Mail]

Gary Spackman
Idaho Department of Water Resources
322 E. Center St.
PO Box 83720
Boise, ID 83706-0098

[Hand Delivered]

Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

[First Class Mail]

John Walker
Rt. 1 Box 9
King Hill, ID 83633

[First Class Mail]

Franklin & Elizabeth Powers
3154 S. Crabapple Ln.
Boise, ID 83706

[First Class Mail]

George L. Presley
Rt. 1 Box 12
King Hill, ID 83633

[First Class Mail]

King Hill Irrigation District
PO Box 428
King Hill, ID 83633

Dated: 2/15/05

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

G:\WPDATA\KWF\2368 ROCKY MOUNTAIN\Petition for Reconsideration.68533.wpd cdv

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 1198

BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 68533 IN THE NAME OF ROCKY MOUNTAIN LAND AND CATTLE, LLC	**PETITION FOR RECONSIDERATION**

The purpose of this Petition for Reconsideration is to focus on the amounts of irrigated acreage. So far as we are aware, virtually the same acreage that is presently irrigated has been irrigated since many years prior to 1987. To our understanding, there is no proposal to change the acreage irrigated and we ought to be able to come to a satisfactory conclusion as to what that acreage really is. We do not accept that a mistake in a spreadsheet renders the information not credible; it may require the mistake to be corrected. Why couldn't the map analyzers get together and review the discrepancies or areas of concern and see if they can agree on the number of acres within each quarter-quarter section historically irrigated, both for the purpose of this transfer proceeding and the SRBA processing?

DATED this 15th day of February, 2005.

HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

Kent W. Foster, Esq.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

DOCUMENT SERVED: PETITION FOR RECONSIDERATION

ATTORNEYS SERVED:

[Facsimile & First Class Mail]

Gary Spackman
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

[First Class Mail]

Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

[First Class Mail]

John Walker
Rt. 1 Box 9
King Hill, ID 83633

[First Class Mail]

Franklin & Elizabeth Powers
3154 S. Crabapple Ln.
Boise, ID 83706

[First Class Mail]

George L. Presley
Rt. 1 Box 12
King Hill, ID 83633

[First Class Mail]

King Hill Irrigation District
PO Box 428
King Hill, ID 83633

Dated: 2/15/05

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

G:\WPDATA\KWF\2368 ROCKY MOUNTAIN\Petition for Reconsideration.68533.wpd.edv

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DEANNE CASPERSON**
ROBERT L. HARRIS

* Also licensed in Arizona and Utah
**Also licensed in Missouri and Kansas

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

FACSIMILE TRANSMITTAL SHEET

DATE: February 15, 2005

TO: Gary Spackman - Idaho Department of Water Resources

FAX #: 208-287-6700

FROM: Kent W. Foster

FAX #: (208) 523-9518

NO. OF PAGES INCLUDING TRANSMITTAL SHEET: 3

ITEMS SENT: Petition for Reconsideration

ORIGINALS: Sent in mail (√) Kept on File ()

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE (208) 523-0620.

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination or distribution of this communication to other than the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by collect telephone at (208) 523-0620, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

Telecopier Operator

Cheri Vandermeulen

SENDER: COMPLETE THIS SECTION

- Complete items 1, [illegible] 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROCKY MOUNTAIN L&C LLC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

61-349

2. A [illegible] 7003 0500 0003 1890 4992

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please F[illegible]early) B. Date of Delivery: Jessica Patterson 2/3/05

C. Signature: X Jessica Patterson ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete ite[illegible], and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

FRANKLIN & ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

61-349

7003 0500 0003 1890 4985

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by ([illegible]t Clearly) B. Date of Delivery

C. Signature: X Elizabeth Powers ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete iten [illegible]d 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JOHN WALKER
~~RT 1 BOX 9~~ 4775 E. Montgomery Rd
KING HILL ID 83633

61-349

7003 0500 0003 1969 3048

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Pl[illegible]Clearly) B. Date of Delivery 2-2-05

C. Signature: X John D. Walker ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, [illegible] and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GEORGE L PRESLEY
~~RT 1 BOX 12~~ 4688 Montgomery Rd.
KING HILL ID 83633

61-349

2. Article Number [illegible] 7003 0500 0003 1890 4756

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by ([illegible]Clearly) B. Date of Delivery 2/2/05
Geri Brennan

C. Signature: X Geri Brennan ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete ite[illegible], and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KING HILL IRRIGATION DISTRICT
PO BOX 428
KING HILL ID 83633

61-349

7003 0500 0003 1969 3031

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

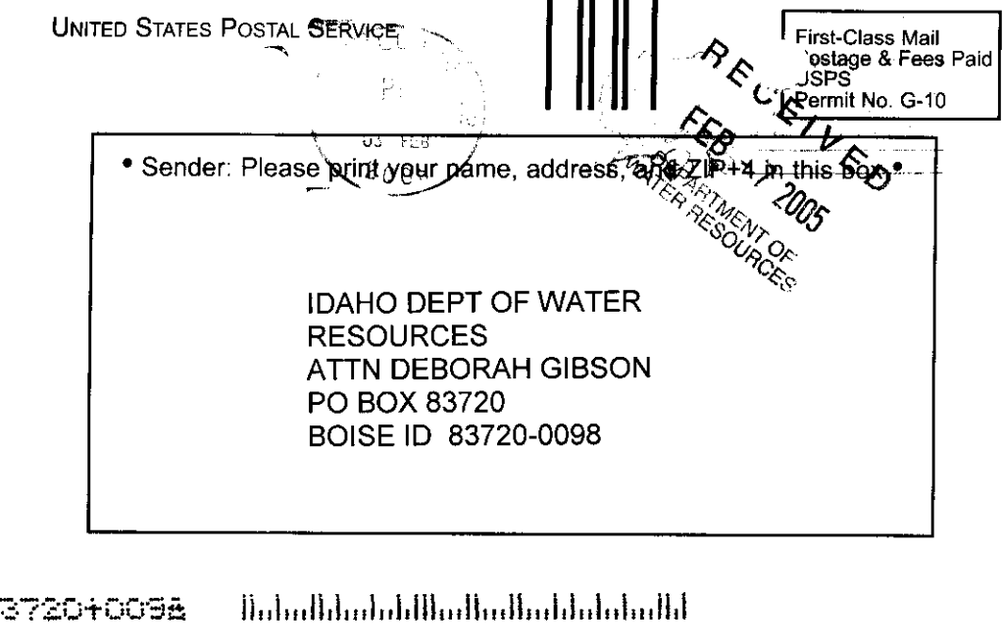
A. Received by ([illegible]t Clearly) B. Date of Delivery 2/2/05
DEBRA SMITH

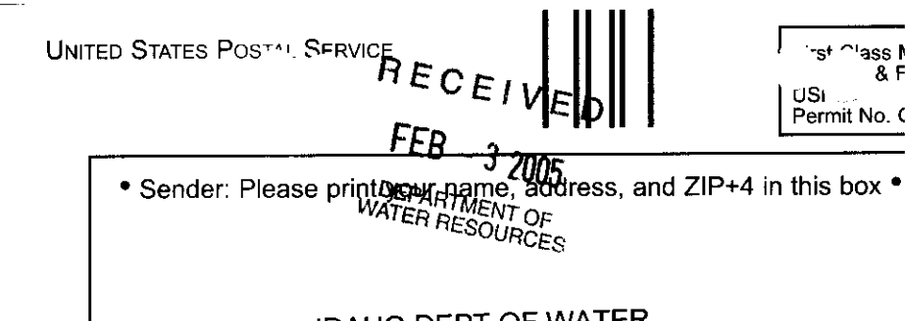
C. Signature: X Debra Smith ☐ Agent ☐ Addressee

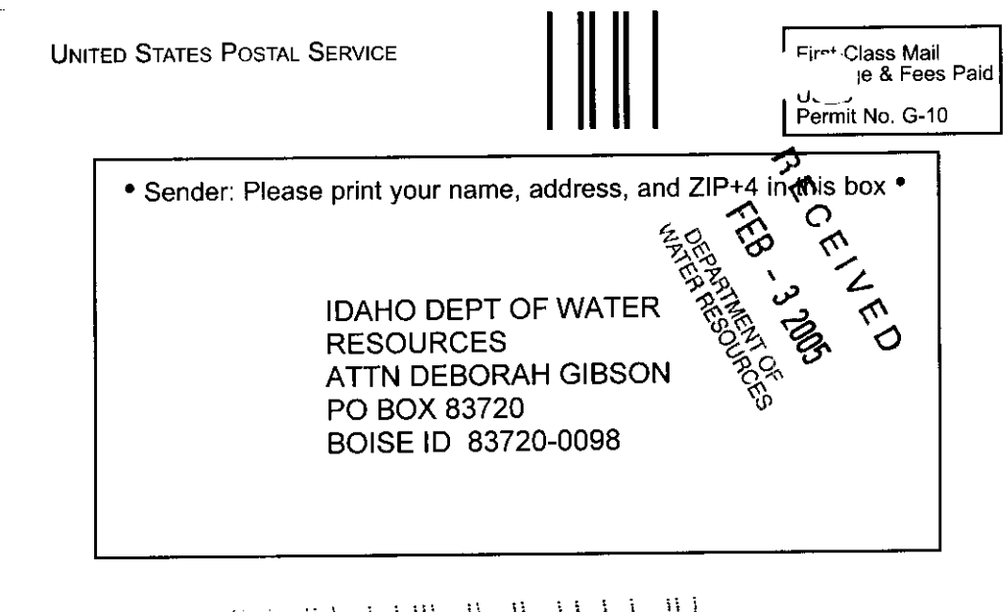
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

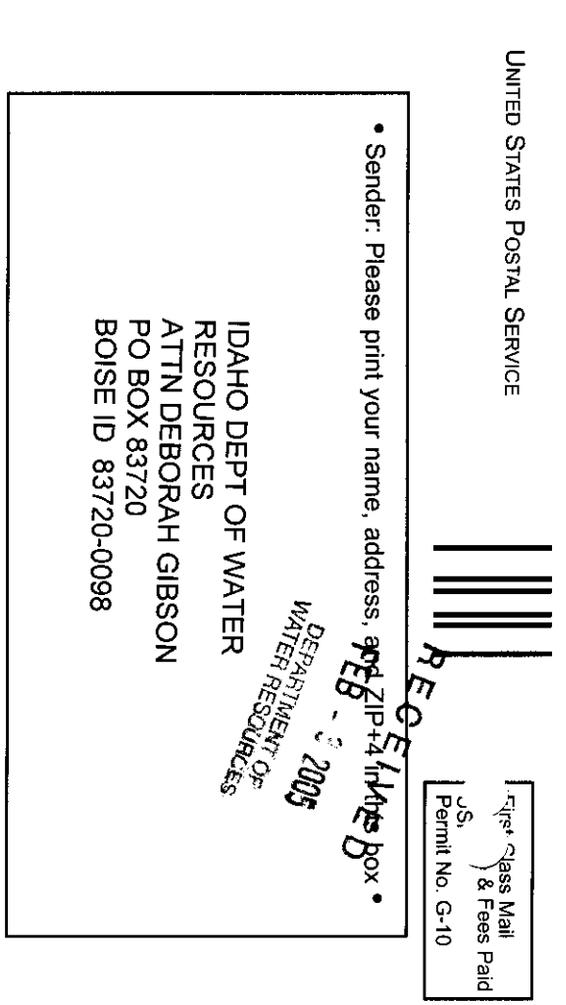
3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

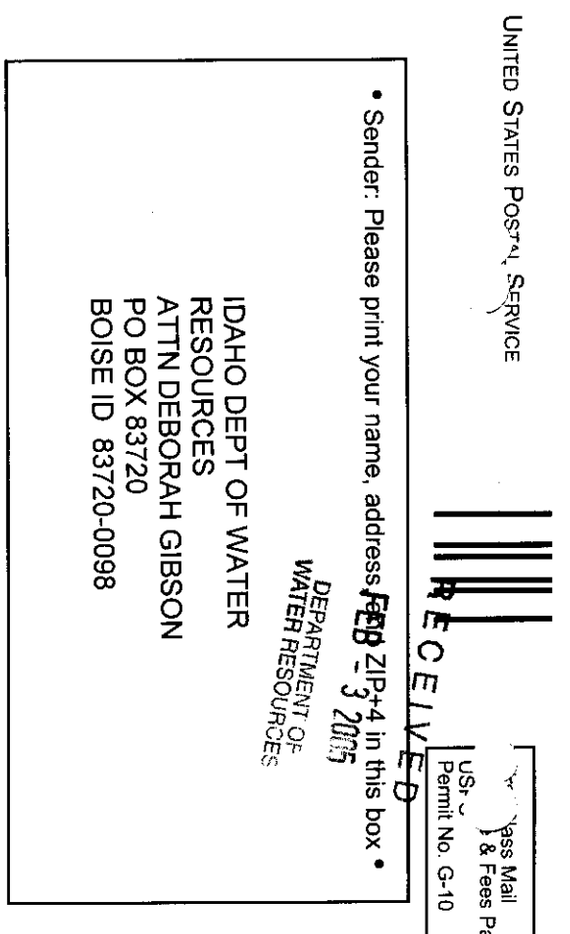
4. Restricted Delivery? (Extra Fee) ☐ Yes


UNITED STATES POSTAL SERVICE
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10
RECEIVED
FEB 7 2005
DEPARTMENT OF
WATER RESOURCES
• Sender: Please print your name, address, and ZIP+4 in this box •
IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
PO BOX 83720
BOISE ID 83720-0098


UNITED STATES POSTAL SERVICE
RECEIVED
FEB - 3 2005
DEPARTMENT OF
WATER RESOURCES
• Sender: Please print your name, address, and ZIP+4 in this box •
IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
PO BOX 83720
BOISE ID 83720-0098


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WATER RESOURCES
• Sender: Please print your name, address, and ZIP+4 in this box •
IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
PO BOX 83720
BOISE ID 83720-0098


UNITED STATES POSTAL SERVICE
First-Class Mail
& Fees Paid
USPS
Permit No. G-10
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FEB - 3 2005
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WATER RESOURCES
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IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
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UNITED STATES POSTAL SERVICE
First-Class Mail
& Fees Paid
USPS
Permit No. G-10
RECEIVED
FEB - 3 2005
DEPARTMENT OF
WATER RESOURCES
• Sender: Please print your name, address, and ZIP+4 in this box •
IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
PO BOX 83720
BOISE ID 83720-0098

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Return Reciept Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

2/1/05
Postmark Here
dg

Sent To
JOHN WALKER
Street or PO
RT 1 BOX 9
City,
KING HILL ID 83633

PS Form 3800, June 2002 See Reverse for Instructions

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OFFICIAL USE

Postage	$
Certified Fee	
Return Reciept Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	

2/1/05
Postmark Here
dg

Sent To
ROCKY MOUNTAIN L&C LLC
C/O KENT FOSTER
Street or PO
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
City,
IDAHO FALLS ID 83405

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
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Postage	$
Certified Fee	
Return Reciept Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

2/1/05
Postmark Here
dg

Sent To
KING HILL IRRIGATION DISTRICT
Street or PO
PO BOX 428
City,
KING HILL ID 83633

PS Form 3800, June 2002 See Reverse for Instructions

7003 0500 0003 1890 4985

U.S. Postal Service™
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OFFICIAL USE

Postage	$
Certified Fee	
Return Reciept Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	

2/1/05
Postmark Here
dg

Sent To
FRANKLIN & ELIZABETH POWERS
Street, Apt. No.
3154 S CRABAPPLE LN
or PO Box No.
BOISE ID 83706
City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
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For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$
Certified Fee	
Return Reciept Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

2/1/05
Postmark Here
dg

Sent To
GEORGE L PRESLEY
Street or PO
RT 1 BOX 12
City,
KING HILL ID 83633

PS Form 3800, June 2002 See Reverse for Instructions

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 1, 2005

Re: In the matter of Application for Transfer No. 68533 in the name of Rocky Mountain Land & Cattle, LLC

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Preliminary Order** pursuant to section 67-5243, Idaho Code. **It 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 described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208) 287-4942.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer 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 fourteen (14) 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 this 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) 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 Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, request for oral argument and any other matters filed with the Director in connection with the 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 Director 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 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.

6/15/04

ROSTER
RMLC HEARING

Name	Address
Hoe E. Hawkins	6022 E Rocky MT. Rd King Hill Id
Kent W. Foster	IDAHO FALLS
Charles E. Brockway	2016 Washington St. North Twin Falls ID 83301
Rob Harris	IDAHO FALLS
Gib Brown	Box 428 King Hill, ID 83633
K.C. Duerig	Box 403 King Hill, ID 83633
Lee Presley	6688 Montgomery Rd King Hill 83633
Elizabeth M. Poole	3154 S. Crabapple Lane Boise 83706

6/15/04

RMLC HEAR VB

TAPE # — TESTIMONY

70 — Start Introductions

314 — Kent's witness - Hal Hawkins

1740 — Presley x-exam - " "

2080 — Powers x-exam - " "

2275 — Gary x-exam - " "

3330 — Powers additional question regarding water P/U

3570 — Hal's comment/response to Powers

3690 — Gib's question regarding total acres

3900 — Off record

#	Testemony
3902	On record
3945	Kent's Witness - Dr. Brockway
4380-	Exhibit 1E received
5821-	Exhibit 2A "
6135-	Exhibit 2C "
6365	Exhibit 3A "
6565	Exhibit 5 "
6780	Exh 1E brief
6995	Exh 2A + 2C brief
7645	Exh 3A brief
8200	Exh 5 brief
8760	Brockway's conclusions
8971	Tape Change
15	Tape 2 start

175 Presley x-exam

483 Gibbs x-exam

529 Presley x-exam

673 Break

675 Gary x-exam

1300 Presley question

1385 Kent done

1460 Presley - (own witness)

1545 Exhibit A (written testimony)

1635 Exhibit B (photos)

1900 Exhibit C (headgate diagram)

2075 Exhibit D + E (ERO letters)

2390 Kent's x-exam

3085 off record

3380 Presley re-exam of Hal

3400 Exhibit 6 received
(A-F) photos

3520 Garyje x-exam of Presley

Powers declined testimony

Gib " "

4120 Kent proposes Brockway recomputation based on 350' of 24 pipe to be presented post hearing

4343 off record

* Brockway would rather make a measurement rather than a calculation

* What is the proper high water mark?

4425 Computation will be submitted in 2 weeks, with 2 weeks for review

4460 Kent's recall of Brockway - Chuck explains photos (exh 6A-F)

4938 Presleys re-exam of Brockway

5030 Garyje Closing

5362 Done

EXHIBIT: 5

Description	Received
(Kent Foster)	
1E - Letter, map, spread sheet	Y
2A - Letter, Photos (King Hill Ditch)	Y
2C - Letter (King Hill Ditch capacity)	Y
3A - Letter, photos, mean results (Clover Ck pump)	Y
5 - Aerial Photo, aquifer study results, well logs	Y
6 - Photos A-F (King Hill Ck headgate & pipeline)	Y
(Lee Presley)	
A - written testimony	Y
B - Photos (3 pgs)	Y
C - Headgate diagram	Y
D - ERO Letters / Measurements	Y
E /	Y

Received

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

January 19, 2004

Ms. Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Subject: Rocky Mountain Land & Cattle Irrigated Area Delineation

Dear Lori:

Please find enclosed the corrected map, spreadsheet and amended page 1 of the transfer for Rocky Mountain Land & Cattle.

I have sent a copy of the documents to you by e-mail which you should have received prior to your receipt of this letter.

If there is any further information I can provide, please let me know.

Sincerely,

Jason C. Helms, EIT

cc: Kent Foster
attachments

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

RECEIVED JAN 2 2 2004

Rocky Mtn Land and Livestock-King Hill

Irrigated Areas and Appicable Water Rights

Irrigated Area Revised January 24, 2003-CEB; January 16, 2004-JCH
Reflects completion of pivot in NWNE and NENW Sec 12 T 5S R10E

T	R	Sec	1/4	1/4	Area Total	Irrigated	Non Irrig.	Claims 61-349 King Hill Creek	61-353 King Hill Creek	61-356 King H. Creek	61-357 King H. Creek	61-2242 Ground Water	61-2243 Ground Water	61-7231 Ground Water	37-4112 KHID Claim			Recommended 61-349 King Hill Creek	61-353 King Hill Creek	61-356 King H. Creek	61-357 King H. Creek	61-2242 Ground Water	61-2243 Ground Water	61-7231 Ground Water	37-4112 KHID Claim
								1.2	1.12	6.4	13.6	0.94	1.6	1.2											
								160	120	320	320	47	80	60											
												Limit 2.54 cfs combined													
5S	10E	1	NE	NE	40.5	36.2	4.3	38	38										N/R	40.1	40.1				
			NW	NE	40.3	35.4	4.9								4.8					40	40				
			SW	NE	40.5	28.3	12.2								32.3					30	30				
			SE	NE	40.3	40.3	0.0			40	40				17.7					40.2	40.2				
			NE	SW	40.6	0.0	40.6								0.2										
			SW	SW	40.9	40.4	0.5								39.1										
			SE	SW	40.6	37.9	2.7								40										
			NE	SE	40.2	36.6	3.6								35.9					31	31				
			NW	SE	40.4	3.6	36.8								19.4					1.4	1.4				
			SW	SE	40.3	27.4	12.9								25.9										
			SE	SE	40.1	9.3	30.8													8.4	8.4				
		2	SE	SE	41.2	23.2	18.0								12.9										
5S	10E	12	NE	NE	39.6	4.0	35.6								28.5	?				6	6				
			NW	NE	39.7	28.6	11.1									?									
			NE	NW	39.6	30.0	9.6								20.6										
			NW	NW	39.7	39.7	0.0								38.5										
			SW	NW	39.2	35.6	3.6								35.3										
5S	11E	5	NE	SW	40.4	27.4	13.0								0.8					28	28				
			NW	SW	40.4	25.1	15.3								12.9					31	31				
			SW	SW	40.4	40.4	0.0								40					40	40				
			SE	SW	40.4	27.8	12.6								30.8					14	14				
			NW	SE																3.7	3.7				
5S	11E	6	NW	NE	40.9	34.1	6.8	39	14					20		not finished				34	34				
			SW	NE	39.7	21.9	17.8			40	40		3			?				12.5	12.5				
			SE	NE	39.6	13.5	26.1	30						40		?				13	13				
			NE	NW	40.9	37.5	3.4	40	40							?				41	41				
			NW	NW	31.0	29.3	1.7	13	28							?				31.3	31.3				
			SW	NW	30.6	30.6	0.0			40	40	18				?				30.1	30.1				
			SE	NW	40.3	39.6	0.7			40	40		33			?				40	40				
			NE	SW	40.3	39.6	0.7			40	40		35			?				40	40				
			NW	SW	30.6	30.6	0.0			40	40	20				?				31	31				
			SW	SW	30.6	20.4	10.2					9			30.6	?				20	20				
			SE	SW	40.3	25.7	14.6						7		1.2	?				9.1	9.1				
			NE	SE	40.1	34.4	5.7									?				33	33				
			NW	SE	40.0	38.1	1.9			40	40		2			?				32	32				
			SW	SE	40.0	22.9	17.1			40	40					?				20	20				
			SE	SE	40.1	31.9	8.2								31.2	?				30.5	30.5				
5S	11E	7	NE	NE	39.5	6.2	33.3								7					1.7	1.7				
			NW	NE	39.4	0.1	39.3																		
			SW	NE	19.7	8.4	11.3																		
			SE	NE	39.6	16.8	22.8								27.4										
			NE	NW	39.7	13.8	25.9																		
			NW	NW	30.3	16.9	13.4													12	12				
			NE	SE	11.7	3.6	8.1																		
5S	11E	8	NW	NW	39.8	17.2	22.6													19	19				
			SW	NW	39.8	4.4	35.4																		
			NW	SW	20.4	8.4	12.0																		
			NE	NW																3.2	3.2				
			Total		1730.4	1123.1	607.3	160	120	320	320	47	80	60						767.2	767.2				

Form 1-222
12-90

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 5850

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant Rocky Mountain Land & Cattle, LLC Phone (208)523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo - P.O. Box 50130, Idaho Falls, ID 83405

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other

2. Describe the reason for the proposed changes More efficient irrigation by means of additional pivot sprinkler systems.

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
61-349	4/1/1876	1.20	Irrigation	3/15 to 11/15
61-353	4/1/1891	1.12	Irrigation	3/15 to 11/15
61-356	1/7/1901	6.40	Irrigation	3/15 to 11/15
61-357	1/7/1901	490afa	Irrigation Storage	1/1 to 12/31
61-357	1/7/1901	490afa	Irrigation from Storage	3/15 to 11/15
61-357	1/7/1901	13.60	Diversion to Storage	10/15 to 7/1
61-2242	7/28/1966	0.94	Irrigation	4/1 to 10/31
61-2243	7/26/1966	1.60	Irrigation	4/1 to 10/31
61-7231	10/4/1968	1.20	Irrigation	4/1 to 10/31
37-20344	1/25/1904	0.88	Irrigation	4/15 to 10/15

2. Total amount of water being transferred 13.34 cubic feet per second and/or 490 acre-feet per annum.

3. Source of water King Hill Creek for 61-349, 61-353, 61-356, 61-357 tributary to Snake River

3. Source of water Ground water for 61-2242, 61-2243, 61-7231, 61-357 tributary to

3. Source of water Clover Creek for 61-20344 tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
	NW	NW	SW	26	4S	10E	Elmore	61-349, 353, 356, 357
	NE	SW	NE	6	5S	11E	Elmore	61-2242, 2243, 7231
	NE	SW	NE	6	5S	11E	Elmore	37-20344

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW ¼				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	
5S	10E	1	36	35	28	40									37	4		9	189
		12	4																4
5S	11E	5									27	25	40	28					120
		6		34	22	14	38	29	31	40	40	31	20	26	34	38	23	32	452
		7	6		8	17	14	17							4				66
		8						17	5		8								30

Total acres 861

Rocky Mountain Land and Cattle
Irrigated Acres - 05S, 10E and 05S, 11E



Source Water = Groundwater & King Hill Creek

Source Water = King Hill Irrigation District

26.2 Irrigated Acres

26.2 Non Irrigated Acres

Township Boundary

Section Boundary

Quarter Section Boundary

Rectified FSA Aerial Photos, 2002
Brockway Engineering, PLLC
ALR January 27, 2003 - Revised JCH 1/15/04

Received

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

December 13, 2002

RECEIVED DEC 16 2002

Kent Foster
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

Re: Rocky Mountain Land & Cattle Company
King Hill Creek Ditch & Pipeline

Dear Mr. Foster:

As requested, Brockway Engineering has performed a hydraulic analysis of the pipeline and ditch delivery system from King Hill Creek to the Walker Reservoir. Our analysis is based on field measurements of the ditch system and survey data collected on the existing pipeline.

System Description

The "system" is comprised of a concrete head box located directly on King Hill Creek. The concrete diversion box contains a wooden log gate which is not operable, but situated in the full open position. Diversion of water from King Hill Creek is accomplished by man-made check structures placed in the creek to impound water and direct it into the diversion structure. The concrete diversion structure contains a drop inlet to a 30" diameter corrugated metal pipe (CMP) which is placed in the historic ditch location. The history of this pipeline is unknown, however it appears to include several repairs and short sections of 42" diameter CMP. The total length of this pipeline was measured by our office to be approximately 5,580 feet. Of this amount, approximately 700 feet is 42" diameter and 4,880 feet is the 30" diameter CMP. The pipeline operates as a low head pressure pipeline, however at some locations the pipeline contains minor leaks and may flow open channel for a distance.

The pipeline discharges to a ditch which runs for approximately 4.35 miles where it discharges into Walker Reservoir. The ditch is comprised of short lined sections containing PVC lining placed against the ditch bottom and sides. Approximately 10 culverts are located along the ditch to provide vehicle access and pivot crossings. The average ditch section is a trapezoidal section comprised of an average bottom width of 4 feet, side slopes of 2H:1V, and an average depth (ditch bottom to top of bank) of 3 feet or more. Based on the USGS topo map of this area, the ditch has a fall of approximately 50 feet from the pipeline outlet to Walker Reservoir. This equates to an average ditch slope of approximately 0.0022 ft/ft.

CHARLES E. BROCKWAY, PH.D., P.E.

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FAX: 736•8506

Included with this letter report are photo pages with photographs taken during our site visits and field measurements. We have labeled the photos to indicate the locations and items of interest.

Capacity Calculations & Hydraulic Analysis

The pipeline was surveyed using a self-leveling level and survey rod. The pipeline alignment was measured using a standard wheel with counter and stationed at 200 foot intervals for our pipeline survey. The data collected during our survey was utilized to model the pipeline and complete our hydraulic capacity calculations. Based on our measurements, the pipeline has approximately 10.75 feet of hydraulic head (pressure) to "push" water through the pipeline. This assumes that the water level in the inlet box is slightly above the top of the square opening to the inlet box. The exact height of the maximum water surface in the inlet box was not recorded, however, we have calculated the capacity of the pipeline based on visual observation of the creek and the inlet structure.

Using known pipe lengths, diameters, pipe roughness, and minor losses (bends, pipe reducer fittings, entrances, etc.), we evaluated the operating capacity of this pipeline. Under the conditions stated above, the capacity of the CMP pipeline is approximately 11.6 cfs if the pipeline is operating under full pipe conditions. If it is possible to raise the inlet water surface another foot by creating a check structure in the creek, the capacity increases to approximately 12.1 cfs. The realistic maximum capacity of the pipeline is 12.1 cfs based on our calculations.

The calculations indicate that the hydraulic grade line is very close to the top of the pipe and even below the top of the pipe in some locations. If this occurs in a perfectly sealed pressure pipeline, the pipeline will operate under a very slight vacuum condition and no net decrease in capacity is encountered. However, if leaks in the pipeline exist in these areas of lower pressure, then air will likely be introduced to the pipeline and pressure head is lost. Several areas were observed with minor leaks so it is very likely that air is introduced to the pipeline in areas and the pipeline may operate as an open channel pipe for certain distances. Assuming the minor leaks can be repaired, the maximum capacity of this pipeline is approximately 12 cfs as stated above.

The King Hill Creek ditch section closely resembles a trapezoidal section with an average bottom width of approximately 4 feet and side slopes of approximately 2H:1V. As stated previously, the average slope of this ditch is approximately 0.0022 ft/ft. Using Manning's equation and the ditch parameters listed above, the ditch will operate with an average depth of approximately 1.0 feet at a flow rate of 12 cfs. On average, the depth of the

side slopes of the ditch were greater than 3 feet. With the exception of two culvert areas (discussed below), the ditch and associated culvert crossings have more than enough capacity to handle the flow from the pipeline.

Two culvert sections were evaluated to determine if there were constrictions on the delivery system. A 36" diameter culvert used for vehicle access across the ditch (see photo) appears to be set too low and not provide adequate freeboard during high flow periods. Based on visual observation of this location, it appears that during high flow events, water flows over the roadway, bypassing the culvert. While it still appeared that the entire flow in the ditch could pass this area, it is advised that this culvert be removed and placed higher with higher banks upstream and downstream to contain 100% of the flow during high flow periods. The second culvert of concern is located approximately 150 feet downstream of the outlet of the pipeline. This culvert is a 36" diameter CMP culvert. Based on survey measurements of this culvert and known high water levels upstream and downstream of this culvert, the predicted maximum historical flow in this culvert was calculated to be 11.05 cfs which agrees closely with the pipeline capacity calculations. However, additional flow could be forced through this culvert as the inlet headwater elevation increases. While the culvert is a constriction, it does not appear to be the limiting factor in this system.

Ditch Losses

On two separate occasions, we completed ditch loss measurements at the beginning and end of the 4.35 mile King Hill Creek Ditch. Flow measurements were taken of the ditch flow utilizing a standard USGS Pygmy flow meter and revolution counter. On May 29, 2002, a flow rate of 5.39 cfs was measured downstream of the pipeline outlet. A second measurement was made directly upstream of the reservoir at the end of the ditch on the same date. The flow rate measured at this location was 3.41 cfs which indicated that the ditch loss was 1.98 cfs. However, our evaluation of the ditch in December 2002 revealed a pump in the ditch which may have been operating at the time of the May 29 measurement. If this were the case, the loss would be overestimated by the flow rate pumped from the ditch at the pump station location.

On December 5, 2002, a second set of ditch loss measurements were taken at the upstream and downstream ends of the ditch system. Using the same measurement technique listed above, 2.45 cfs was measured in the ditch downstream of the pipeline outlet. A second measurement made the same day upstream of the reservoir recorded a flow rate of 1.64 cfs which equates to a ditch loss of 0.81 cfs.

Since there is a potential discrepancy concerning the May 29 measurement, it is our recommendation that a third ditch loss measurement be made in the spring during the higher flow period. At the time of our measurement, we will verify that the pump in the ditch is not operating and take a measurement of the upstream and downstream flows in the ditch. This data will allow us to better estimate the actual loss attributed to this ditch.

Conclusions

The capacity of the pipeline was estimated to be 12.1 cfs based on known pipeline parameters and survey data of the pipeline alignment and apparent historical operation inlet levels. Based on our visual observation of the ditch system, the ditch capacity is well above the capacity of the pipeline and typically would flow only about 1 foot deep with a flow rate of 12 cfs. Two culvert areas with potential constriction conditions were observed. While both areas could be improved, they likely are not restricting the overall performance of the ditch and are not the limiting factor in determining the capacity of the ditch. Several ditch measurements were made to estimate ditch losses. More additional data is required to better quantify the amount of ditch loss in this system.

Thank you for the opportunity to provide this analysis. If you have any questions or require further analysis, please contact our office. Thank you.

Sincerely,

Jeffrey S. Rau, P.E.

Attachment: Photo Pages (4)

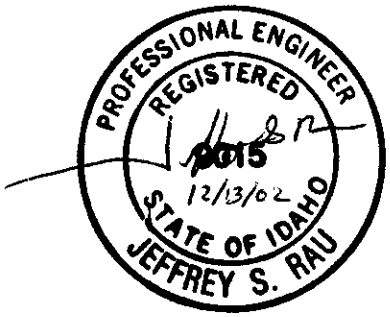




Figure 7 - 48" Dia Steel Culvert on Lower Ditch Section



Figure 8 - 12/5/02 Lower ditch flow measurement.



Figure 5 - 36" Dia CMP Culvert - Low Culvert with Marginal Bank Freeboard



Figure 6 - 36" Dia CMP Culvert at Start of Ditch



Figure 3 - Typical Un-Lined Ditch Section - Mid Ditch Area



Figure 4 - Typical Un-Lined Ditch Section - Upper Ditch Area

Rocky Mountain Land & Cattle
King Hill Creek Ditch



Figure 1 - Typical Lined Ditch Section - Upper Ditch Area



Figure 2 - Typical Lined Ditch Section - Lower Ditch Area

Received

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

January 22, 2003

RECEIVED
JAN 24 2003

Kent Foster
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

Re: Rocky Mountain Land & Cattle Company
King Hill Creek Pipeline

Dear Mr. Foster:

As requested, Brockway Engineering has collected additional field data to evaluate the King Hill Creek Pipeline and we offer the following information on this issue.

As you are aware we had previously evaluated the King Hill Creek Pipeline and summarized our findings in a letter report to your office on December 13, 2002. In this report, there was some uncertainty concerning the maximum inlet operating water surface elevation. On January 13, 2003 we completed an additional site visit to the diversion and surveyed the high water mark (HWM) in the inlet box and estimated the realistic maximum water surface elevation obtainable with some modifications to the check structure. Using this data, we calculated the capacity of the pipeline under both conditions.

Based on visual observation and survey of the high water mark inside the diversion box, the estimated maximum historical flow rate calculated for the pipeline is 12.21 cfs which is only slightly higher than the value presented during our previous analysis. This value assumes the inlet water surface elevation is at the high water mark observed during our survey and the existing pipeline configuration. There were no other indications on the walls of the inlet structure which indicated that the water has operated higher than this elevation.

At the same time of our January 13 survey, we observed the area of the creek which currently contains the check structure for the King Hill Creek diversion. The check structure consists of tarps, plastic sheeting, and wood placed in the creek to create a pool for the diversion structure. These items are not permanent and are obviously modified seasonally to allow diversion into the inlet box and pipeline. The channel which contains the check structure is approximately 25 feet wide and contains basalt boulders ranging from 12" to 48" in diameter or larger. Construction of a higher check structure would be possible with mechanical equipment, although access to the site would be very difficult. At the time of our survey, we estimated the maximum height of a

CHARLES E. BROCKWAY, PH.D., P.E.

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check structure if it were constructed without using large mechanical equipment (hand labor). This elevation very closely matches the maximum water surface elevation observed in the inlet box. Assuming a check structure was placed at this higher elevation and assuming the overtopping elevation over the new check structure was 6" above the structure, the calculated flow rate in the pipeline was 12.46 cfs which is still not much more than the maximum calculated based on the inlet structure high water mark.

We hope this additional data is helpful in resolving some of the issues with this delivery system. Please review the data included in this letter report and contact our office if you have any questions or comments. Thank you and have a great day.

Sincerely,

Jeffrey S. Rau, P.E.

PROFESSIONAL ENGINEER
REGISTERED
8515
1/22/03
STATE OF IDAHO
JEFFREY S. RAU

Received

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

April 29, 2002

Hal Hawkins
Rocky Mountain Land & Cattle Company
2235 East 25th Street
Idaho Falls, ID 83404

RECE
APR 30 2002

Re: Clover Creek Flowmeter
Water Measurement Certification

Dear Mr. Hawkins:

Enclosed is the completed water measurement certification form for the meter on the discharge line from the Clover Creek pump station at King Hill. To verify the accuracy of the 12" McCrometer flow meter, we utilized our Fuji strap on ultrasonic flow meter and compared it against the in-line meter on a 15 minute and 30 minute test. During both tests, the meters were well within the tolerance limit of 10% allowed by IDWR (-2.3% & -3.1% as shown on the report). At the time of our test, the pump was pumping very near the amount allowed under the water right from Clover Creek.

The flow meter appears to be installed correctly however it should be verified that the meter is outside the county road right of way and the meter should be protected with a culvert pipe or access box. As you will note in the photos, the meter is exposed in a dirt pit and is experiencing sloughing of the soil and will eventually become buried.

I have included the original signed form and a copy for your records. To comply with Item #2 of your consent agreement with IDWR, you will need to submit the original form and one set of the photo pages to Idaho Department of Water Resources. A copy of this report has been forwarded to Kent Foster for his records.

Please review the enclosed documents and contact our office if you have any questions or comments. Thank you and have a great day.

Sincerely,

Jeffrey S. Rau, P.E.

Attachment: Water Measurement Form (Original & Copy)
Photo Pages (2 Sets)

Cc: Kent Foster

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

WMP2 3-6-1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Water Measurement Program

COPY

1998 WATER MEASURING DEVICE CERTIFICATION

District ____ Inventory Date ____ Inventory Examiner ____ PCC ok? Yes /no

Date of test APRIL 26, 2002 4/26/02 Person performing test JEFFREY S. RAW, BROCKWAY ENGR. Exam complete? (Yes) no

2016 NORTH WASHINGTON ST, SUITE 4 TWIN FALLS, ID 83301
208-736-8543

Name: ROCKY MOUNTAIN LAND & CATTLE COMPANY
Water Right No: 37-20344
Legal Description: T 55 R 11E Sec. 8 NW ¼ SW ¼ ____ ¼
Site Tag No: ____
Diversion Name: CLOVER CREEK PUMP STATION

Current Owner ROCKY MOUNTAIN LAND & CATTLE COMPANY
Name c/o HOLDEN, KIDWELL, HAHN, CRAPO (Last, First, MI) Phone 208-523-0620
Address P.O. BOX 50130 City IDAHO FALLS State ID Zip 83405

Operator *(if leased or operated by someone else)*
Name N/A (Last, First, MI) Phone ____

SECTION I WELL SITE IDENTIFICATION N/A

* PUMPED DIVERSION FROM CREEK (CLOVER CREEK)

Global Positioning System Data:

Data Collection Filename ____ Offset ____

IDWR Site Tag Identification No. ____

Site Tag location description: ____

PLS/USGS Locator ____

Diversion Name: ____

For Department/District Use Only

Received by ____ Date ____

Reviewed by ____ Date ____

Data Entry by ____ Date ____

SECTION II INSTALLED METER INFORMATION

METER AND MOUNTING PIPE INFORMATION			
Motor HP	125 HP	Volume Units AC IN * 0.01	Acre-Feet Gallons Other(specify) X
Meter Install Date	JUNE 2001	Volume Multiplier	0.01
Manufacturer	McCROMETER	Installation location	(Excl) Good Fair Poor
Meter Type	IMPELLER	Pipe material	PVC
Meter Model	M0312-500 OV	Outside Diameter	12"
Serial Number	01-12-1079N	Wall Thickness	UNKNOWN
Size (nominal)	12"	Inside Diameter	—
Measure Flow Rate?	(circle one) (Yes) No	Dist. of straight pipe upstream from meter	> 20' (BURIED)
Measurement Units	(circle one) CFS (GPM) Other(specify)	Dist. of Straight pipe downstream from meter	20' +
Flow rate Multiplier	N/A	Std Meter Type FUJI	(Sonic) Pyg Collins Half Anub Dye/chem Other
Measure Cumulative Volume?	(circle one) (Yes) No	Std. Meter Confidence	(Excl) Good Fair Poor 2% 5% 10% >10%

Are **multiple flowmeters** used to measure diversions from this ~~well~~ SITE? Yes / (No)
If so, how many? X (Attach separate form for each meter checked and/or calibrated)

If this meter measures diversions from **multiple wells**, names and locations of other wells: N/A

SECTION III CERTIFICATION FOR CALIBRATION OF A WATER MEASUREMENT METER
See back page for instructions.
Measurement No. 1 (M_1) is the measured rate of flow from the permanently installed flow meter.

Measurement No. 2 (M_2) is the measured rate of flow from the measuring device being used to check the flow for the calibration. This method or device must be accurate to within ± 5% error. **Describe below the method and equipment used to perform this measurement.**

Percent Difference = $(M_1 - M_2) \div M_2 \times 100 = \pm$ % (Acceptable is within ± 10%) (equation 1)

Calibration Multiplier = $M_2 \div M_1$ (equation 2)

Is flowmeter installed according to manufacturer's specifications? (Yes) / No / Unsure
Describe any apparent problems with installation or operation A BOX OR CULVERT PIPE SHOULD BE USED TO PROTECT THE METER INSTALLATION.

Flowmeter accuracy prior to any adjustments: 2-3% Totalizer reading —

Flowmeter accuracy after final adjustment: NO ADJUSTMENT MADE Totalizer reading —

Flowmeter calibration multiplier: NONE

Water Level Data N/A

Does the well have acc s to measure water levels? Yes / No

Is this well part of USGS, IDWR, or another **network** of water level monitoring wells? Yes / No

Static Water Level _____ ft Pumping Water Level _____ ft (at condition _____)

Date _____ Date _____

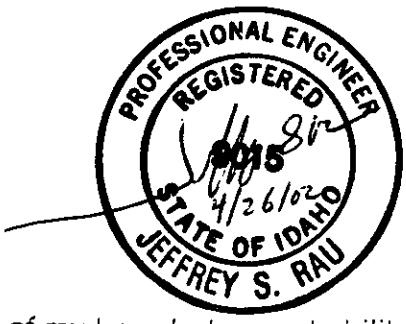
FLOWMETER ACCURACY CALIBRATION TABLE

Owners meter (totalizer reading)	Time	Total Gallons	Ave. Flow Rate - GPM (M.)	Standard total gallons	Average flow rate (M.)	Percent diff. (±)	Comments and adjustments
	10:30:00	∅		∅			
306011	10:45:00	5703	380	5839	389	-2.3%	6000
306032	11:00	—		∅			
306073.5	11:30	11269	376	11642	388	-3.1%	600D
							(NO ADJUSTMENT MADE)

Notes, Comments or Calculations: 6000 SOLID READINGS, FLOWMETER INSTALLED CORRECTLY AND RECORDING WELL WITHIN THE ACCEPTABLE LIMITS. NO METER ADJUSTMENTS REQUIRED.

Sketch and or photograph of installation:

SEE ATTACHED SHEETS.



I certify that the above information is true and correct to the best of my knowledge and ability and the measurements taken and recorded are in accordance with the standards and specifications of the equipment used.

Signature _____ Date 4/26/02

(person performing measurements)

Rocky Mountain Land & Cattle Company
Clover Creek Diversion Flow Meter





Clover Creek Diversion - Flow Meter Installation
McCrometer 12" Strap-on Impeller Meter

Dial = 0 - 4000 gpm
Totalizer Units = ac in X 0.01



Rocky Mountain Land & Cattle Company
Clover Creek Diversion Flow Meter





Standard Meter
Fuji - Ultrasonic FLC S2011

Automatic Totalizing for 15 minute & 30 minute test

V-Mount Setup with FLG1S Sensors



Brockway Engineering, PLLC April 2002

APPLICANT'S EXHIBIT 5

PITCHFORK RANCH AREA

800 0 800 1600 2400 3200 Feet

- Well
- Well with Driller's Log
- A - A — Cross Section Line for Profile Drawing
- Quarter Section Lines
- Section Lines
- Township Division Line

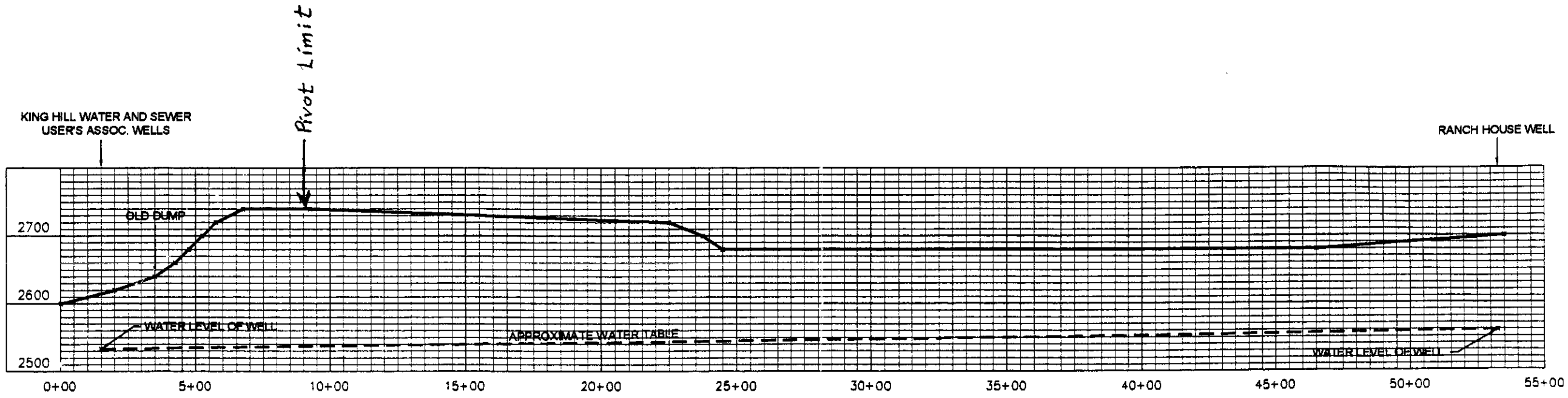
N W E S

Brockway Engineering, PLLC
MLA 4/18/2002

T05S, R10E | T05S, R11E

Irrigation Well
Hot Well
W6
W4
Old Dump
W1
W7
A
W5
W8
W3
W2
Artesian Well
W10
1
6
5
11
12
7

1999 Resampled FSA Aerial Photo



PROFILE A-A

NOTES:

1. FOR LOCATION OF PROFILE A-A SEE PITCHFORK RANCH AREA DRAWING

THIS DRAWING HAS BEEN PREPARED BY BROCKWAY ENGINEERING, PLLC FOR A SPECIFIC PROJECT TAKING INTO ACCOUNT THE SPECIFIC AND UNIQUE REQUIREMENTS OF THE PROJECT. REUSE OF THIS DRAWING FOR ANY PURPOSE IS PROHIBITED UNLESS WRITTEN PERMISSION FROM BOTH BROCKWAY ENGINEERING & THE CLIENT IS GRANTED.

REV	DESCRIPTION	DATE	APPD.	REFERENCE DRAWINGS

VERTICAL SCALE 1"=160'
HORIZONTAL SCALE 1"=375'

BROCKWAY ENGINEERING, PLLC
HYDRAULICS - HYDROLOGY - WATER RESOURCES
2016 NORTH WASHINGTON, SUITE 4
TWIN FALLS, ID 83301
(208) 736-8543

PITCHFORK RANCH PROFILE DRAWING

ROCKY MOUNTAIN LAND AND CATTLE CO.

PROJECT # 494-01-2001

DWG # 1

REV 0

Form 238-7
9/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

USE TYPEWRITER OR BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. WELL OWNER

Name King Hill Water & Sewer Users Assoc.

Address P.O. Box 308 King Hill, Id 83633

Owner's Permit No. 61-90-W-004

2. NATURE OF WORK

☑ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☑ Domestic ☐ Irrigation ☐ Test ☑ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

☑ Rotary ☑ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☑ Steel ☐ Concrete ☐ Other _____

Thickness	Diameter	From	To
.250 inches	6.625 inches +	2 feet	78 feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

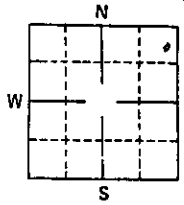
Was casing drive shoe used? ☑ Yes ☐ No
Was a packer or seal used? ☐ Yes ☑ No
Perforated? ☐ Yes ☑ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches

Number	From	To
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☑ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Gravel packed? ☐ Yes ☑ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 78 Material used in seal: ☐ Cement grout
☑ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☑ Overbore to seal depth
Method of joining casing: ☐ Threaded ☑ Welded ☐ Solvent Weld
☐ Cemented between strata
Describe access port _____

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____
Lot No. _____ Block No. _____
County Elmore
NE ¼ NE ¼ Sec. 12, T. 5 N/S, R. 10 E/W.

7. WATER LEVEL

Static water level 80 feet below land surface.
Flowing? ☐ Yes ☑ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature _____ °F. Quality _____
Describe artesian or temperature zones below.

8. WELL TEST DATA

☑ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
40		3

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
10"	0	12	Sandy soil		
	12	15	Sand & gravel		
	15	20	Cobbles (River rock)		
	20	24	Sand & gravel		
	24	49	~~Sandy brown clay~~ sand & gravel		
	49	53	clay w/ brown sand		
	53	63	brown & sandy clay		
	63	70	brown sand		
	70	75	brown sand		X
8"-6"	75	120	blue clay		X

RECEIVED
SEP 7 1990
Department of Water Resources

RECEIVED
SEP 10 1990
Department of Water Resources
Western Regional Office

10.

Work started 8/21/90 finished 8/21/90

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Hiddleston & Son, Inc Firm No. 35
Address Mt. Home, Id Date 8-23-90
Signed by (Firm Official) Mark S Hiddleston
and
(Operator) Mark S Hiddleston

Form 238-7
9/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

USE TYPEWRITER OR BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. WELL OWNER

Name King Hill Water & Sewer Users Assoc.

Address P.O. Box 308, King Hill, Id 83633

Owner's Permit No. 61-90-W-005

2. NATURE OF WORK

☑ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☐ Domestic ☐ Irrigation ☐ Test ☑ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

☑ Rotary ☑ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☑ Steel ☐ Concrete ☐ Other _____

Thickness	Diameter	From	To
.250 inches	16.625 inches +	2 feet	98 feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

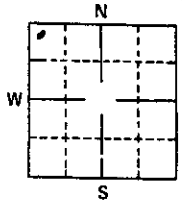
Was casing drive shoe used? ☑ Yes ☐ No
Was a packer or seal used? ☐ Yes ☑ No
Perforated? ☐ Yes ☑ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches

Number	From	To
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☑ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter ___ Slot size ___ Set from _____ feet to _____ feet
Diameter ___ Slot size ___ Set from _____ feet to _____ feet
Gravel packed? ☐ Yes ☑ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 76 Material used in seal: ☐ Cement grout
☑ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☑ Overbore to seal depth
Method of joining casing: ☐ Threaded ☑ Welded ☐ Solvent Weld
☐ Cemented between strata
Describe access port _____

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____
Lot No. _____ Block No. _____

County Elmore

NW ¼ NW ¼ Sec. 7, T. 5 N/S, R. 11 E/W.

W7

7. WATER LEVEL

Static water level 84 feet below land surface.
Flowing? ☐ Yes ☑ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature _____ °F. Quality _____
Describe artesian or temperature zones below.

8. WELL TEST DATA

☑ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
20		3

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
10"	0	.5	Top soil		
	.5	3	boulder		
	3	6	sand & big gravel		
	6	20	sand & gravel		
	20	27	off white clay		
	27	50	sand & gravel		
	50	65	sandy brown clay		
	65	71	sandy w/clay seams		
10-⅝"	71	78	brown clay		
	78	83	blue clay		
	83	89	brown clay w/sand	X	
	89	90	brown clay		
	90	95	blue clay		
	95	109	blue clay w/sandstone	X	
	109	120	blue clay	X	
	120	138	blue clay		
	138	140	black sandstone		

RECEIVED
SEP 7 1990
Department of Water Resources

10.

Work started 8/22/90 finished 8/22/90

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Hiddleston & Son, Inc Firm No. 35
Address Mt. Home, Id 83647 Date 8/23/90
Signed by (Firm Official) Mark S. Hiddleston
and
(Operator) Mark S. Hiddleston

RO[illegible]Y MOUNTAIN LAND & CATTLE[illegible]LC.
A[illegible]LICATION FOR TRANSFER NO.[illegible]33
APPLICANT'S EXHIBITS 6 (A-F)



APPLICANT'S EXHIBIT 6A



APPLICANT'S EXHIBIT 6B



APPLICANT'S EXHIBIT 6C



APPLICANT'S EXHIBIT 6D



APPLICANT'S EXHIBIT 6E



APPLICANT'S EXHIBIT 6F

Presley Exhibit A
Received

KING HILL RANCH
George L. Presley
6688 East Montgomery Road
King Hill, Idaho 83633

June 13, 2004

IDWR 6/15/2004 Hearing on Transfer No. 68533

I have lived on my ranch on King Hill Creek since 1972. Since then I have had the experience of dealing with seven different owners of the property now owned by Rocky Mountain Land & Cattle.

Each new owner has had a different perspective of what to do with the King Hill Creek water.

The Walker ditch has been a continuing source of damage to land owned by me. Damage has ranged from massive land slides to leaky ditches running water across my farm fields.

I am very familiar with the Historic use of the water in the Walker ditch. The usual Spring flow of King Hill Creek provides plenty of water for Rocky Mountain to run their pipeline to capacity and still meet the needs of other water users.

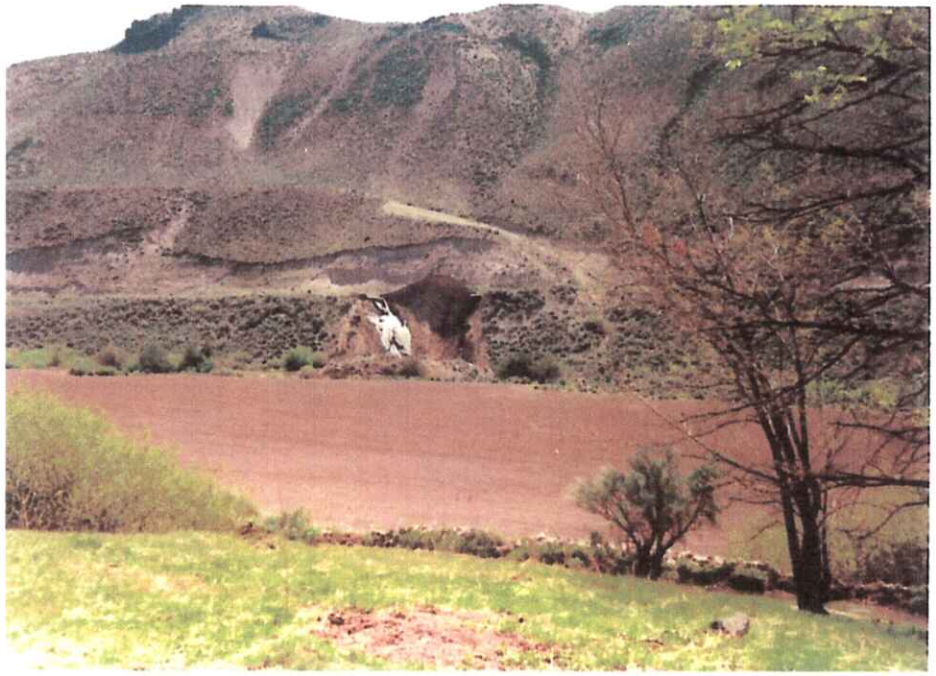
This flow usually lasts through May and then starts to taper off. By June water becomes more scarce and they have to decrease their flow. By mid July there usually is not enough water for anyone to fight over. The Walker ditch is seven and a half miles long through lava rock and other porous materials. Small volumes of water cannot be diverted and delivered to the ranch. Traditionally the owners of the ranch have shut the ditch down when it becomes unfeasible to deliver the water. When the weather cools in the Fall and flow rates in King Hill Creek increases, they begin to divert water through the Walker ditch again.

The difference of opinion I have with Rocky Mountain is the volume of water they say the ditch will handle.

They are stating 12.21 cfs and I believe it to be closer to 7.0 cfs.

I fail to see how they can have a water right above and beyond the physical capabilities to deliver. The water they are filing on above their Historic ability to deliver is a non-entity in my eyes.

May 5, 1985
except picture #4





2



3



4

July 1985

Presley Exhibit B
received



5



5

May 5, 1985

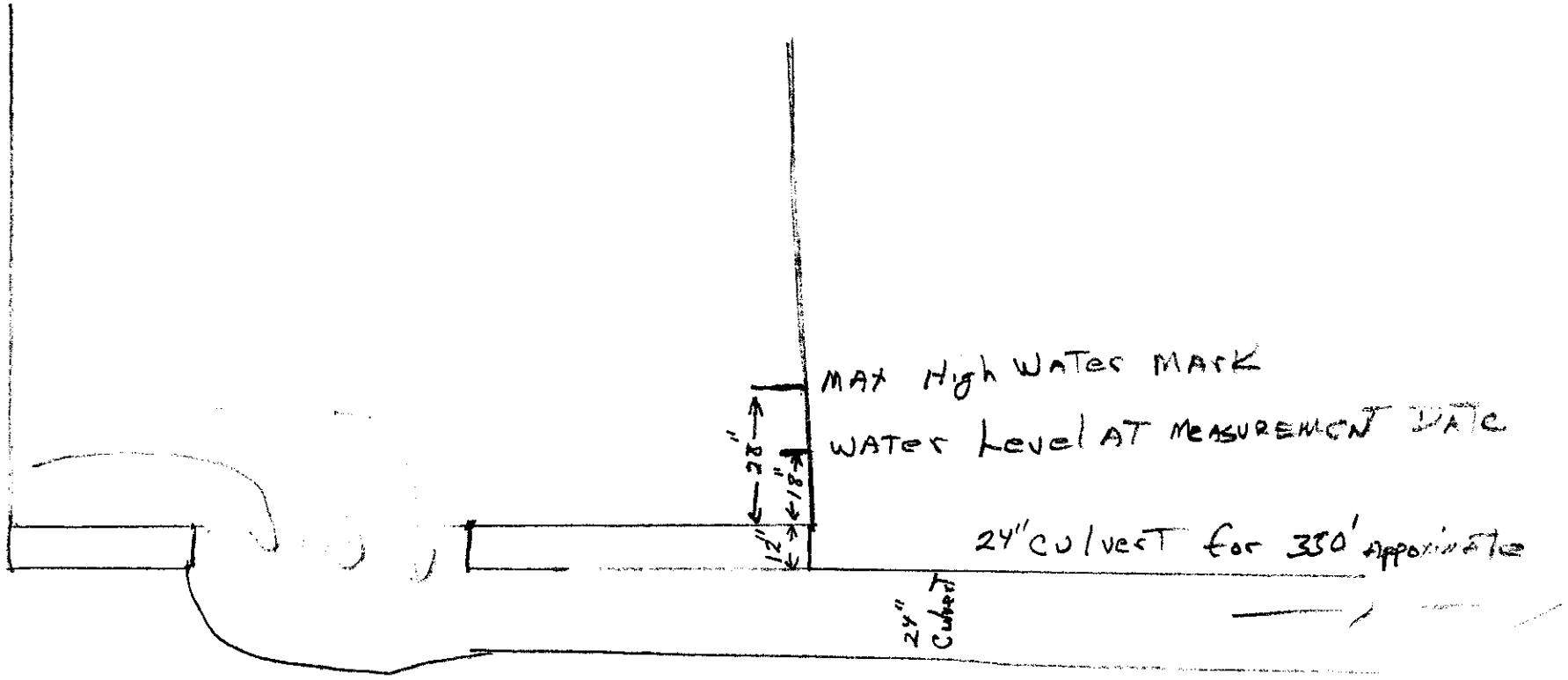


7

Preeley
Exhibit 2C
Received

Cement Headgate Structure
Walker ditch

MAX Head 40"
Head AT Measure 30"



Presley
Exhibit 5 D
1 of 2 letters
received

ERO
RESOURCES CORPORATION

ERO Resources Corp.
1106 N. Cole Rd., Ste. C
Boise, Idaho 83704-8661
(208) 373-7983
Fax: 373-7985

Denver • Boise

www.eroresources.com
eroboise@eroresources.com

May 12, 2004

Lee Presley
6688 East Montgomery Rd.
King Hill, ID 83633

RE: REVISED Discharge Measurement on Walker Ditch

Dear Mr. Presley:

In a letter dated May 10, 2004, I provided you the results of a discharge measurement made on Walker Ditch on April 27, 2004 (5.55 cfs). In that letter I indicated that Bill Harenberg of ERO conducted a brief tour of the headgate and that no measurements or observations were recorded. From your response and further discussions with Bill that statement is wrong. This letter corrects that statement and should be used in conjunction with the letter dated May 10, 2004.

Bill indicated that he did measure the depth of water in the concrete box that forms the headgate system. He indicated that he measured 18 inches from the box bottom to the water level using his wading rod. The bottom of the wading rod was set on what appeared to be the bottom of the concrete box at the level of the box outlet. However, Bill was unable to physically see the box bottom and the orientation of the box outlet/pipeline inlet, so the amount of sediment on the bottom or under his wading rod is unknown. The measured depth is the hydraulic head on the pipeline at the headgate. However, given that the length of the pipeline is approximately 5,380 feet, it is unlikely that the pipe discharge is limited by inlet conditions. Changes in head would have a minimal change in discharge through the pipe.

I hope this helps. If you have any questions, please feel free to call.

Regards,

Steven R. Hannula

Presley
Exhibit 6 E
2 of 2 letters
Received

ERO
RESOURCES CORPORATION

ERO Resources Corp.
1106 N. Cole Rd., Ste. C
Boise, Idaho 83704-8661
(208) 373-7983
Fax: 373-7985

Denver • Boise

www.eroresources.com
eroboise@eroresources.com

May 10, 2004

Lee Presley
6688 East Montgomery Rd.
King Hill, ID 83633

RE: Discharge Measurement on Walker Ditch

Dear Mr. Presley:

On April 27, 2004, Bill Harenberg of ERO Resources measured the discharge of Walker Ditch at the reach you indicated. The measuring station is a dirt ditch lined with plastic sheeting at the end of the 30-inch culvert (see attached photographs). A USGS pygmy meter and wading rod were used to measure the shallow stream. The data were recorded on an AquaCalc 5000. The stream was divided into 21 sections, which offers a good (±5 %) measurement rating.

Discharge was measured to be 5.55 cubic feet per second. The mean velocity was 1.43 feet per second at a total cross-sectional area of 3.89 square feet.

A brief tour of the headgate was also conducted, though no measurements or observations were recorded.

If you have any questions, please feel free to call.

Regards,

Steven R. Hannula

Steven R. Hannula





Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

RECEIVED
JUL 22 2004
Department of Water Resources

July 20, 2004

Mr. Gary Spackman
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

RE: Transfer Number 68533

Dear Mr. Spackman:

We are enclosing with this letter a letter report on the King Hill Creek Pipeline from Dr. Charles E. Brockway together with all attachments.

Yours very truly,

Kent W. Foster

Enclosures

c: Hal Hawkins
Chuck Brockway
George L. Presley, King Hill Ranch
Franklin & Elizabeth Powers

G:\WPDATA\KWF\2368 ROCKY MOUNTAIN\Correspondence\2004\Spackman ltr 072004 wpd.cdv

RECEIVED
JUL 21 2004
COPY
Department of Water Resources

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

July 19, 2004

Kent Foster
Holden, Kidwell, Hahn, & Crapo
330 Shoup Ave, Third Floor
P.O. Box 50130
Idaho Falls, ID 83405

Re: Rocky Mountain Land & Cattle Company
King Hill Creek Pipeline

Dear Kent:

The following information is in response to the request by the IDWR hearing officer, Gary Spackman, to review the site conditions at the start of the King Hill Creek Pipeline. On June 29, 2004, Jeff Rau from our office met on-site with Hal Hawkins and Rich Wooten of Rocky Mountain Land & Cattle Company, and Lee Presley who is the protestant in this case.

Several conditions were evaluated at the time of the site visit. At the time of the visit, the flow in the creek was low and the collection box had been shut allowing a complete evaluation of the inlet configuration of the pipeline and the evaluation of the high water level. Photos of the collection box and high water mark are included with this report.

Jeff was able to confirm that the inlet to the pipeline consisted of a 3' x 3' x 30" deep concrete box inlet to a 24" diameter corrugated steel pipe (CMP). At the time of our original site visits, the opening to the pipe was under water and we relied on the elevation difference between the inlet floor and the collection box floor to estimate the inlet pipe size at 30" CMP. This was used in our original calculations.

Using a cloth tape, the measured length of the 24" diameter pipe is approximately 540 feet which was agreed upon by all parties in the field. This is longer than the length originally estimated by Mr. Presley. Our calculations were amended to allow for the 24" diameter CMP section and the amended pipe calculations are included with this letter report. For the purposes of the hearing officer, we have included both our handwritten hydraulic calculations for the analysis as well as our Excel spreadsheet analysis which is used to make the actual pipeline calculations.

There has been some discrepancy as to the exact high water elevation in the collection box. We have included a photograph of a sheet of steel inside the collection box with a reference rod to determine the high water mark. The

RECEIVED JUL 20 2004

high water mark from the floor of the structure is very evident at 2.35' (28.2") and also evident up to 2.55' (30.6"). Mr. Presley has indicated that the high water mark is 28.5" above the floor of the collection box which we used in our analysis.

Our calculations also include one change in the input variables to the excel program. Our original calculation estimated the corrugation depth on the pipelines to be 1". During our recent site visit, the corrugations were measured with a micrometer. The corrugations average 0.5" deep which is in agreement with standard CMP pipe corrugations. For the purposes of our calculations, we have reduced the pipe roughness to 0.5".

As shown in the accompanying calculation, the calculated flow in the pipeline is 12.13 cfs based on the high water mark specified by Mr. Presley. This calculation includes the inclusion of 540 feet of 24" diameter CMP as discussed earlier.

We trust that this information will be acceptable to the hearing officer in completing his analysis for recommendation on this matter. Please contact our office if you need additional analysis or have questions concerning our calculations. Thank you and have a great day.

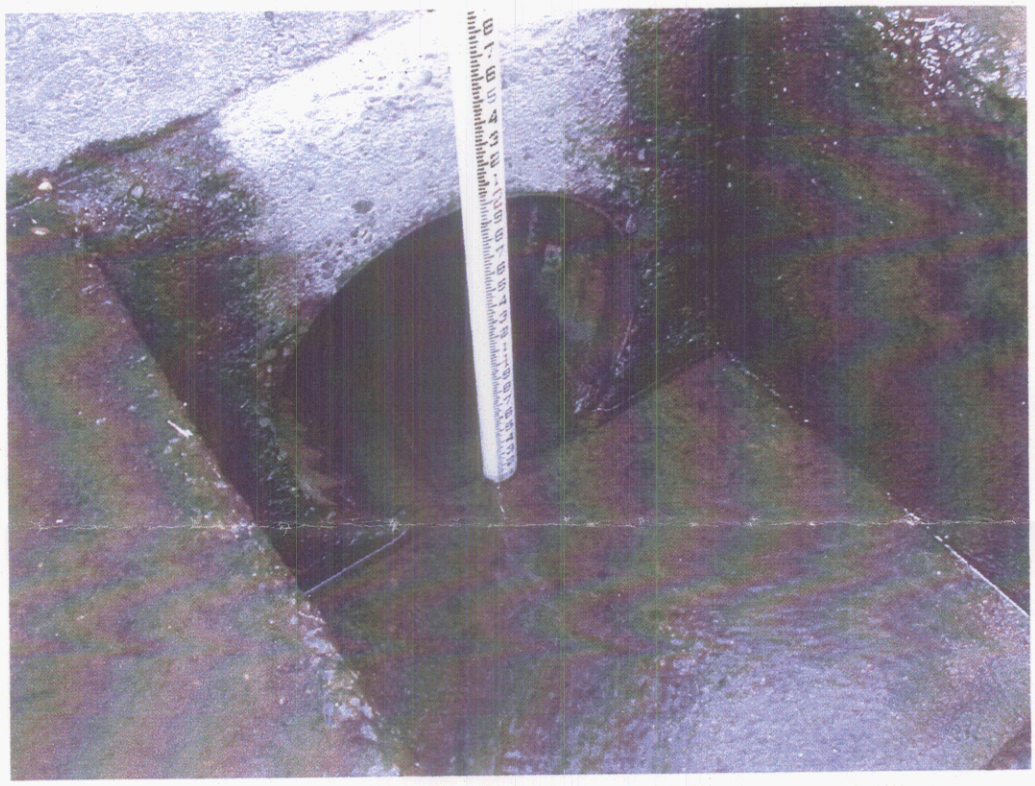
Sincerely,

Charles E. Brockway, P.E.

Attachment: Calculation Sheets
Excel Calculation
6-29-04 Site Photos Exhibits (2)

Cc: Jeff Rau
Hal Hawkins

Rocky Mountain Land & Cattle
6-29-04 Site Visit Photos
King Hill Creek Pipeline



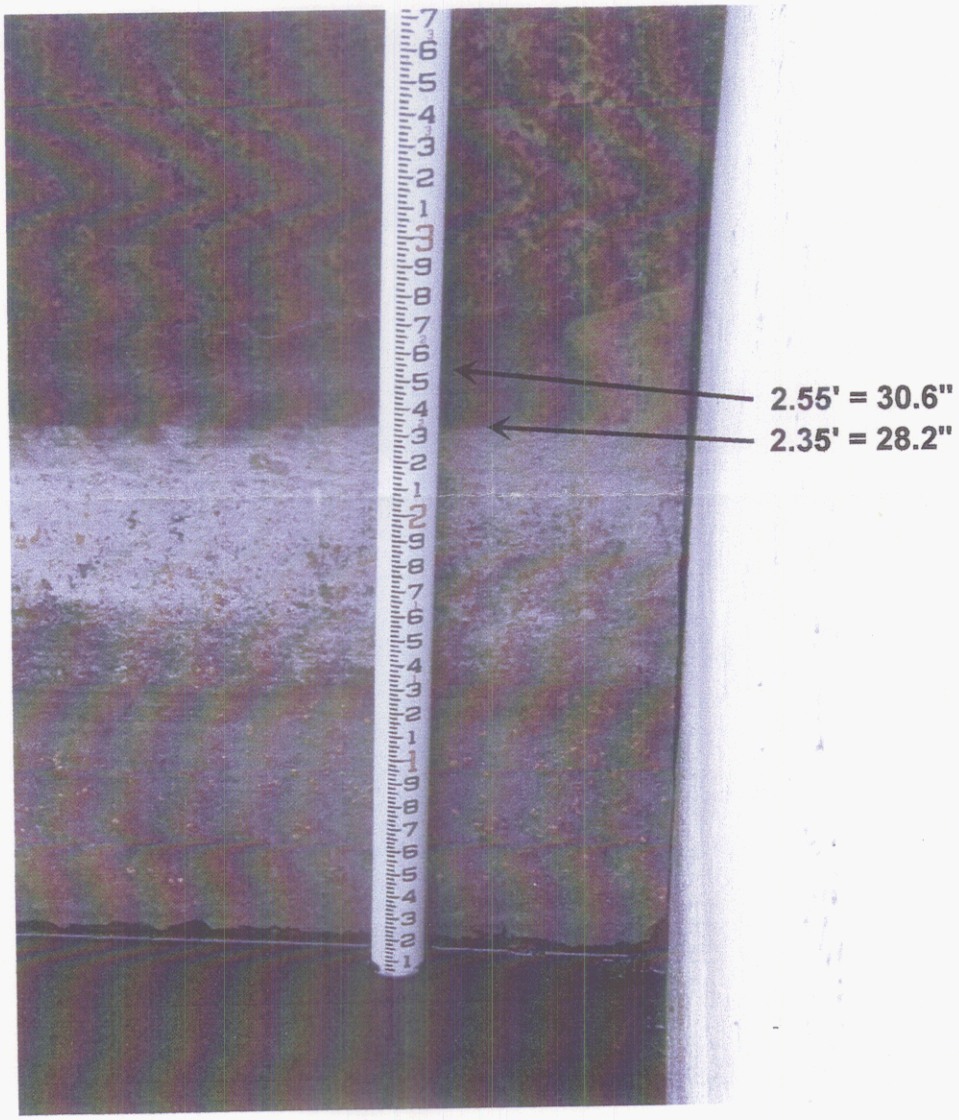
Outlet from collection box - Outlet pipe = 24" CMP



Outlet box showing 3' x 3' x 30" deep inlet blockout

Brockway Engineering, PLLC
July 2004

Rocky Mountain Land & Cattle
6-29-04 Site Visit Photos
King Hill Creek Pipeline



High water marks on steel plate in collection box.

Brockway Engineering, PLLC
July 2004

King Hill Creek Pipeline
Hydraulic Pipeline Analysis
June 30, 2004

Pipe Information
Pipes #1

Diameter	24	inches
Diameter	2.00	ft
Length 1 =	540	ft
Area 24" =	3.14	sq ft
Pipe Roughness (e)	0.042	ft
e/d	0.021	

Pipe Information
Pipes #2, 4, 6

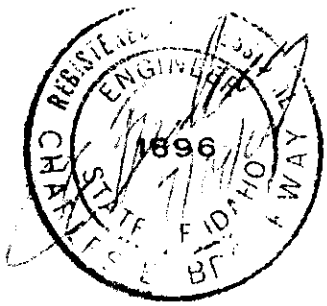
Diameter	30	inches
Diameter	2.50	ft
Length 2 =	1890	ft
Length 4 =	150	ft
Length 6 =	2300	ft
Area 30" =	4.91	sq ft
Pipe Roughness (e)	0.042	ft
e/d	0.017	

Pipes #3, 5

Diameter	42	inches
Diameter	3.50	ft
Length 3 =	500	ft
Length 5 =	200	ft
Area 42" =	9.62	sq ft
Pipe Roughness (e)	0.042	ft
e/d	0.012	

HGL @ Inlet	109.96	ft	Max WSE in Box - Per Lee Presley
HGL @ Outlet	98.25	ft	Center of 30" Pipe @ Outlet
Initial Flow Guess	10.4	cfs	**Based on 30" Pipe, HGL loss, & f = 0.030 - For initial velocity estimate**
Velocity = Pipe 1	3.31	ft/s	(24" Pipe)
Velocity = Pipe 2,4,6	2.12	ft/s	(30" Pipe)
Velocity = Pipe 3,5	1.08	ft/s	(42" Pipe)

Re (1)	543,000	**Reynolds numbers based on flow estimate**
Re (2,4,6)	435,000	
Re (3,5)	311,000	
f(1)	0.050	**From Moody Diagram**
f(2,4,6)	0.047	
f(3,5)	0.040	
"A"	47.77	**See Calculation Sheets for description of "A" and "B" portions of equation**
"B"	2.74	
V (Pipe 1)	3.86 ft/s	
Q	**12.13** cfs	
V (Pipes 2,4,6)	2.47	
V (Pipes 3, 5)	1.26 ft/s	
Re (1)	633,000	**Reynolds number based on flow calculation**
Re (2,4,6)	506,000	
Re (3,5)	362,000	



Note: The reynolds numbers and the roughness puts us in the "fully turbulent" zone of the Moody diagram. In this zone, the friction factor does not vary substantially if at all. The original estimates for the friction factors are identical after the first iteration

King Hill Creek - Ditch
Pipe Hydraulic Calculations
June 30, 2004

MINOR LOSSES - Pipe #1

Item	No.	C loss	Total C loss
22.5 elbow	0	0.2	0
45 elbow	0	0.4	0
90 elbow	1	0.6	0.6
Sharp inlet	1	0.5	0.5
Outlet	0	1	0
Contraction	0	0.22	0
Expansion	0	0.24	0
		SUM	1.10

MINOR LOSSES - Pipe #2

Item	No.	C loss	Total C loss
22.5 elbow	2	0.2	0.4
45 elbow	1	0.4	0.4
90 elbow	0	0.6	0
Sharp inlet	0	0.5	0
Outlet	0	1	0
Contraction	0	0.22	0
Expansion	1	0.24	0
		SUM	1.04

MINOR LOSSES - Pipe #3

Item	No.	C loss	Total C loss
22.5 elbow	2	0.2	0.4
45 elbow	0	0.4	0
90 elbow	0	0.6	0
Sharp inlet	0	0.5	0
Outlet	0	1	0
Contraction	0	0.22	0
Expansion	1	0.24	0
		SUM	0.64

MINOR LOSSES - Pipe #4

Item	No.	C loss	Total C loss
22.5 elbow	2	0.2	0.4
45 elbow	0	0.4	0
90 elbow	0	0.6	0
Sharp inlet	0	0.5	0
Outlet	0	1	0
Contraction	1	0.22	0.22
Expansion	0	0.24	0
		SUM	0.62

MINOR LOSSES - Pipe #5

Item	No.	C loss	Total C loss
22.5 elbow	2	0.2	0.4
45 elbow	0	0.4	0
90 elbow	0	0.6	0
Sharp inlet	0	0.5	0
Outlet	0	1	0
Contraction	1	0.22	0.22
Expansion	0	0.24	0
		SUM	0.62

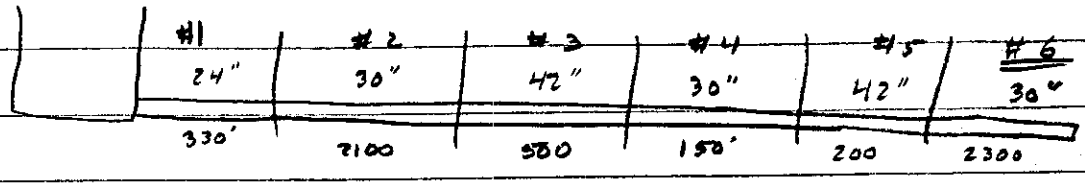
MINOR LOSSES - Pipe #6

Item	No.	C loss	Total C loss
22.5 elbow	2	0.2	0.4
45 elbow	1	0.4	0.4
90 elbow	0	0.6	0
Sharp inlet	0	0.5	0
Outlet	1	1	1
Contraction	1	0.22	0.22
Expansion	0	0.24	0
		SUM	2.0

Sum Loses Pipe #1 = 1.10
Sum Loses Pipe #2, 4 & 6 = 3.68
Sum Loses Pipe #3 & 5 = 1.26

SITUATION

BROCKWAY ENGINEERING
2016 N. WASHINGTON ST., SUITE 4
TWIN FALLS, ID 83301



* BASE CALCS OFF OF V_1

KNOW $Q_1 = Q_2 = Q_3 = Q_4 = Q_5 = Q_6$ (LOSS = MINIMAL, NO INPUT)

KNOW $V_2 = V_4 = V_6$

$V_3 = V_5$ $\qquad V_3 = \frac{V_1 A_1}{A_3}$

$Q_1 = V_1 A_1 = Q_2 = V_2 A_2 = V_3 A_3 = V_4 \ldots$

(1) (2)

$$H_L = \left(\frac{f_1 L_1 V_1^2}{2g D_1}\right) + \frac{f_2 L_2 \left(V_1 (A_1/A_2)\right)^2}{2g D_2} + \frac{f_3 L_3 \left(V_1 (A_1/A_3)\right)^2}{2g D_3} + \frac{f_4 L_4 \left(V_1 (A_1/A_4)\right)^2}{2g D_4}$$

$$+ \frac{f_5 L_5 \left(V_1 (A_1/A_5)\right)^2}{2g D_5} + \frac{f_6 L_6 \left(V_1 (A_1/A_6)\right)^2}{2g D_6}$$

$A_2 = A_4 = A_6 = A_{30}$

$A_3 = A_5 = A_{42}$

$A_1 = A_{24}$

$$H_L = \frac{f_{24} L_1 V_1^2}{2g D_{24}} + \frac{f_{30} L_2 \left(V_1 (A_{24}/A_{30})\right)^2}{2g D_{30}} + \frac{f_{42} L_3 \left(V_1 (A_{24}/A_{42})\right)^2}{2g D_{42}} + \frac{f_{30} L_4 \left(V_1 (A_{24}/A_{30})\right)^2}{2g D_{30}}$$

$$+ \frac{f_{42} L_5 \left(V_1 (A_{24}/A_{42})\right)^2}{2g D_{42}} + \frac{f_{30} L_6 \left(V_1 (A_{24}/A_{30})\right)^2}{2g D_{30}}$$

"A"

$$H_L = \frac{V_1^2}{2g}\left(\frac{f_{24} L_1}{D_{24}} + \frac{f_{30} (A_{24}/A_{30})^2 (L_2 + L_4 + L_6)}{D_{30}} + \frac{f_{42} (A_{24}/A_{42})^2 (L_3 + L_5)}{D_{42}}\right)$$

11.22 45.45 1.11

MINOR LOSSES $= \frac{\Sigma K_L V_{24}^2}{2g}$

$$= \frac{\Sigma K_{L_1} V_{24}^2}{2g} + \frac{\Sigma K_{L_2} V_{24}^2 \left(A_{24}/A_{32}\right)^2}{2g} + \frac{\Sigma K_{L_3} V_{24}^2 \left(A_{24}/A_{42}\right)^2}{2g} + \cdots$$

"B"

$$h_L^{(MINOR)} = \frac{V_{24}^2}{2g}\left(\Sigma K_{L_1} + \left(A_{24}/A_{32}\right)^2\left(\Sigma K_{L_2} + \Sigma K_{L_4} + \Sigma K_{L_6}\right) + \left(A_{24}/A_{42}\right)^2\left(\Sigma K_{L_3} + \Sigma K_{L_5}\right)\right)$$

$$\frac{P_1}{\gamma} + \frac{U_1^2}{2g} + z_1 = \frac{P_2}{\gamma} + \frac{U_2^2}{2g} + z_2 + \text{FRICTION} + \text{MINOR}$$

$$z_1 - z_2 = \text{FRICTION} + \text{MINOR}$$

$$z_1 - z_2 = \frac{V_{24}^2}{2g}(A) + \frac{U_4^2}{2g}(B)$$

$$\sqrt{\frac{2g\,(z_1 - z_2)}{(A+B)}} = U_{24}$$

$$\frac{P_1}{\gamma} + \frac{U_1^2}{2g} + z_1 = \frac{P_2}{\gamma} + \frac{V_2^2}{2g} + z_2 + \frac{fLU^2}{2gD} \qquad V = Q/A$$

$$\sqrt{\frac{A^2\, 2g\,(z_1 - z_2)}{fL}} = Q$$

BROCKWAY ENGINEERING
2016 N. WASHINGTON ST., SUITE 4
TWIN FALLS, ID 83301

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 68533 IN THE NAME OF ROCKY MOUNTAIN LAND AND CATTLE INC.	**NOTICE OF HEARING**

On July 2, 2003 Rocky Mountain Land and Cattle, Inc. filed with the Idaho Department of Water Resources (IDWR) an amended application for transfer of water right. The application was protested by Franklin &/or Elizabeth Powers, George L. Presley, King Hill Irrigation District, King Hill Domestic Water & Sewer Assn., and John Walker.

IDWR has scheduled a hearing for the protest to be held on **Tuesday, June 15, 2004. The hearing will commence at 9:00 a.m at the Glenns Ferry City Hall, 204 E. 2nd, Glenns Ferry, Idaho 83623.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department at least ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 20th day of April 2004.

JOHN WESTRA
WESTERN REGIONAL MANAGER

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of April 2004 I mailed a true and correct copy, postage prepaid, of the Notice of Hearing to those listed:

Sue Kreger
Administrative Assistant

FRANKLIN &/OR ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

GEORGE L PRESLEY
RT 1 BOX 12
KING HILL ID 83633

KING HILL IRRIG DIST
GARDNER BROWN
PO BOX 428
KING HILL ID 83633

KING HILL DOMESTIC WATER &
SEWER ASSN
KNIGHT C DUERIG
PO BOX 396
KING HILL ID 83633

ROCKY MTN LAND & CATTLE LLC
C/O KENT FOSTER
HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

JOHN WALKER
RT 1 BOX 9
KING HILL ID 83633

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for transfer:

1) Will the proposed transfer injure other water rights?

2) Will the proposed transfer constitute an enlargement in use of the original right?

3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof of issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

MEMORANDUM

TO: Transfer File No. 68533

FROM: Lori Graves

DATE: 9/17/03

RE: Evaluation of Sufficiency of Information Submitted

Brief: Rocky Mountain Land and Cattle, LLC (RMLC) have proposed a combined irrigation system for rights from Clover Creek, King Hill Creek and ground water to be used within an 850.7 acre ppu, amended from a 930 acre ppu previously proposed and advertised. The amended transfer also includes two additional claims for King Hill Creek water that were not part of the original transfer. The site is located just north of King Hill.

Contact person for the applicant is Kent Foster with Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Authority to File: The rights have been claimed and recommended in applicant's name. A warranty deed has been provided. Rocky Mountain Land and Cattle, LLC, is registered as an active business entity with the State of Idaho for 2003.

Water Right Validity: Rights 37-20344, 61-356, 61-357, 61-2242, 61-2243 and 61-7231 are assumed valid because they were examined and recommended for partial decree in the SRBA in 2000. These rights were associated with the original transfer filed 9/25/2000.

Rights 61-349 and 61-353 are late claims for King Hill Creek water filed with the court 7/7/2001. Applicants hired Brockway engineering to evaluate the capacity of the King Hill Creek diversion system, which they determined was 12.21 cfs. The two late claims and claim 61-356, when combined, total 8.72 cfs for irrigation during the irrigation season, which is below the system capacity. Claim 61-357 lists 490 afa for reservoir storage and 13.6 cfs diversion to storage from 10/15 to 7/1. Based on Brockway's findings, this claim will be limited to 12.21 cfs diversion to storage during the non-irrigation season and 12.21 cfs when combined with the other King Hill Creek rights during the irrigation season and diversion to storage season overlap. Kent Foster stated in his 6/9/2003 letter that it is unlikely much water will be diverted to storage between 3/15 and 7/1. The acres listed on the late claims were within the ppu recommended for decree on the earlier claims. Based on this information, Craig Saxton, with the SRBA, confirmed that the late claims were valid and would be recommended for decree with the others.

Injury to Other Water Rights: The original transfer was advertised and protested by BLM regarding trespass issues, the Powers and Presley regarding the King Hill Creek

diversion/period of use and King Hill irrigation District regarding system management. Later, King Hill Domestic Water & Sewer Users Association filed an intervention because of possible injury to King Hill's public water supply. Now that the protest period will be re-opened because of this amended transfer, King Hill Domestic Water & Sewer Users will be considered a protestant rather than an intervener. All four parties will be sent notice, but will not have to re-protest.

Enlargement of Use: No change in nature of use has been proposed. The proposed ppu has been reduced from 930 acres to ~~850~~ 851.7 acres, which is still ~~19.3~~ 20.3 acres more than the 831.4 acres IDWR has determined can be legally irrigated under the combination of the rights proposed. Kent Foster stated that if it comes a time when applicants can no longer lease or otherwise acquire water under other rights or contract with the irrigation district to divert and deliver the found water or find some acceptable alternative for diversion and delivery, then applicants will keep ~~19.3~~ 20.3 acres idle in such a year. Please note that applicants have leased water from the Water Supply Bank and contracted with King Hill Irrigation District to divert and deliver that water for the last three years for acres found to be irrigated without water rights. See the RMLC complaint file located at this office for additional information.

Local Public Interest: No negative impacts are anticipated.

Beneficial Use/Conservation of Water Resources: Applicant proposed beneficial use consistent with irrigation standards for the area.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of this application.

Additional Information: The amended transfer adds another 1.94 cfs to the original proposal. The filing fee required for the original was $100. Because IDWR's fee increase is not retroactive, the additional fee required for the amended application was based on the difference between the amended proposal and the original proposal at IDWR's current fee rates: $1109.6 (24.98 cfs) – $1148.80 (26.94 cfs) = $39.20 + $50 amendment fee = $89.20 total due and paid per receipt no. W030667.

Note: The flow for 37-20344 was reduced from 1.24 cfs listed on the original proposal to .88 cfs recommended in the SRBA.

Please refer to my original transfer review memo dated 10/6/00. As an update, RMLC were issued a Notice of Violation 7/5/01 because of their excess pumping from Clover Creek and unauthorized irrigation of 37 acres. This resulted in a $4000 fine and the installation of a totalizing flow meter on the Clover Creek pump station. As mentioned above, RMLC currently leases water, which is delivered through the King Hill Irrigation District system, to irrigate the additional acres not covered by a water right. The ppu was reduced based on an extensive and detailed analysis conducted by Brockway Engineering, which has been included with the amended application as attachment A.

Ownership documentation from the original transfer application was also included as attachment B.

Applicants listed 40.3 acres irrigation in the SENE S1 T5S R10E and 40.4 acres irrigation in the SWSW S5 T5S R11E. Both these are only 40 acre tracts, not government lots. The additional .7 acres cannot be recommended, which changes the proposed ppu to 850 acres.

Water from King Hill Irrigation District is also used for irrigation through the pivot system. See Chuck Brockway's analysis map, attachment A.

This transfer was originally numbered 5850, then renumbered 68533. During the review process, water right 37-2006G was renumbered 37-20344 in the SRBA. A data entry correction to the transfer was requested 9/18/03 to remove 37-2006G from the transfer. Data entry for the other rights appeared to affect the correct records.

Conditions: Assuming protests are not filed and/or other information does not contradict the above analysis, and assuming it is determined the application should be approved, the conditions listed on the draft transfer approval should be applied.

Please note:

A common well is used for the three ground water rights with a system capacity of 4.34 cfs, which is greater than the amount licensed.

831.4 acres irrigation within the proposed ppu was determined after a detailed overlap analysis by IDWR staff prior to the issuance of the N.O.V. 7/5/01. These acres are considered separate from the acres that receive King Hill Irrigation District water, although the district water is delivered through the same pivot system for irrigation of 263 adjoining acres west of the proposed ppu. For management purposes, applicants were required to designate which acres received district water. The proposed rights are **not** considered supplemental to King Hill Irrigation District water within the ppu proposed.

TELEPHONE MEMORANDUM
Kent Foster, Atty.
Rocky Mtn Land & Livstock
Transfer #68533

From: J. Westra, Western Reg.
Date:4/13/04

RE: Request for hearing

Kent Foster called the Western Regional Office (Lori Graves) to request the transfer be sent forward to the SO for a hearing. Lori Graves discussed with Mr. Foster that the Rangen Call and the Hagerman area water issues have put many of the Department funtions on temporary hold. The regional will send the transfer to the SO ASAP for hearing scheduling.

SFW 4/14/04
Called Kent Foster for acceptable hearing date 6/15 looks fine.
Tues., June 15

LEGAL NOTICE
Rocky Mountain Land & Cattle LLC, c/o Holden Kidwell Hahn & Crapo P.L.L.C., of PO Box 50130, Idaho Falls ID 83405 filed amended application no. 68533 with IDWR to transfer eight water rights with 1876 to 1968 priority dates from ground water, King Hill Creek and Clover Creek tributary to the Snake River totaling 26.94 cfs. The transfer proposes a combined irrigation system to be used within a permissible place of use (ppu), moderately reduced from a 930 acre ppu previously proposed and advertised. The amended transfer also includes two additional rights for King Hill Creek that were not part of the original transfer application. Water will be used at the current place of use just north of King Hill.

For specific details regarding the application, please contact IDWR Western Region at 208-334-2190 or visit www.idwr.state.id.us with detail provided under "new water right applications". Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against 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 $25.00 for each application on or before February 9, 2004. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director

PUBLISH: January 15 and 22, 2004

✓ pt

RECEIVED
JAN 26 2004
WATER RESOURCES
WESTERN REGION

46228

Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } SS.

I, Ruby Auderheide being first duly sworn upon oath, depose and say that I am principal clerk of the TIMES-NEWS, published daily at, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated January 15, 2004, and ending with the issue dated January 22, 2004.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 22nd day of January in the year 2004, before me, a Notary Public, personally appeared Ruby Auderheide, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Lynda Copa McGuire
Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 9-19-09

LYNDA COPA McGUIRE
NOTARY PUBLIC
STATE OF IDAHO

LEGAL NOTICE

Rocky Mountain Land & Cattle LLC, c/o Holden Kidwell Hahn & Crapo P.L.L.C., of PO Box 50130, Idaho Falls, ID 83405 filed amended application no. 68533 with IDWR to transfer eight water rights with 1876 to 1968 priority dates from ground water, King Hill Creek and Clover Creek tributary to the Snake River totaling 26.94 cfs. The transfer proposes a combined irrigation system to be used within a permissible place of use (ppu), moderately reduced from a 930 acre ppu previously proposed and advertised. The amended transfer also includes two additional rights for King Hill Creek that were not part of the original transfer application. Water will be used at the current place of use just north of King Hill.

For specific details regarding the application, please contact IDWR Western Region at 208-334-2190 or visit www.idwr.state.id.us with detail provided under "new water right applications". Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Department of Water Resources, Western Region, 2735 Airport Wy, Boise ID 83705-5082 together with a protest fee of $25.00 for each application on or before February 9, 2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

First Publication: January 21, 2004.
Last Publication: January 28, 2004.

RECEIVED
JAN 28 2004
WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

COUNTY OF ELMORE
STATE OF IDAHO } ss.

I, **COLEEN W. SWENSON**, DO SOLEMNLY SWEAR THAT I AM THE PUBLISHER OF THE:

MOUNTAIN HOME NEWS

A WEEKLY NEWSPAPER OF GENERAL CIRCULATION, PUBLISHED ONCE A WEEK, IN MOUNTAIN HOME, IDAHO, THAT THE NOTICE ATTACHED HERETO WHICH IS A PART OF PUBLICATION THEREOF; WAS PUBLISHED IN SAID NEWSPAPER FOR two CONSECUTIVE WEEKS, THE FIRST PUBLICATION HAVING BEEN MADE ON THE 21st DAY OF Jan, 2004, AND THE LAST PUBLICATION HAVING BEEN MADE ON THE 28th DAY OF Jan, 2004; EVERY WEDNESDAY ISSUE OF THE PAPER DURING THE PERIOD AND TIME OF PUBLICATION AND THAT THE NOTICE WAS PUBLISHED IN THE PAPER 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 THE PERIOD OF 78 CONSECUTIVE WEEKS PRIOR TO THE FIRST PUBLICATION OF THE ATTACHED NOTICE.

Coleen W. Swenson
PUBLISHER

SUBSCRIBED AND SWORN TO ME THIS 28th DAY OF Jan, 2004.

CHRISTINE M. LEWIS NOTARY PUBLIC STATE OF IDAHO

Christine M. Lewis
NOTARY PUBLIC

RESIDING IN MOUNTAIN HOME, ELMORE COUNTY, IDAHO.

MY COMMISSION EXPIRES **09-25-2006**

The Idaho
Statesman

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DT#	Identification	Amount
047628	1016249	APPLICATION FOR PERMIT	$68.96

Attention	P.O. #	Run Dates
SUE KREGER		JANUARY 15, 22, 2004

IDAHO DEPT. WATER RESOURCES WEST
2735 AIRPORT WY.
BOISE, ID 83705

RECEIVED
JAN 26 2004
WATER RESOURCES
WESTERN REGION

Number of Lines: 41

Affidavit	Legal #
1	18321

LEGAL NOTICE

Rocky Mountain Land & Cattle LLC, c/o Holden Kidwell Hahn & Crapo P.L.L.C., of PO Box 50130, Idaho Falls ID 83405 filed amended application no. 68533 with IDWR to transfer eight water rights with 1876 to 1968 priority dates from ground water, King Hill Creek and Clover Creek tributary to the Snake River totaling 26.94 cfs. The transfer proposes a combined irrigation system to be used within a permissible place of use (ppu), moderately reduced from a 930 acre ppu previously proposed and advertised. The amended transfer also includes two additional rights for King Hill Creek that were not part of the original transfer application. Water will be used at the current place of use just north of King Hill.

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KARL J DREHER, Director

Pub. Jan. 15,22, 2004 18321

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of *The Idaho Statesman*, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

TWO

[X] consecutive weekly [ ] single

[ ] consecutive daily [ ] odd skip insertion(s)

beginning issue of: JANUARY 15, 2004

ending issue of: JANUARY 22, 2004

Janice Hildreth

STATE OF IDAHO)
.SS
COUNTY OF ADA)

On this 23 day of JANUARY in the year of 2004 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Sondra F Brightman

Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 6/20/06

SONDRA F. BRIGHTMAN NOTARY PUBLIC STATE OF IDAHO

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 01/22/2004 INVOICE NO. 346905

Account No. 964760

Description 346905Rocky Mountain L

Times 2 Lines 47

Tab. Lines

$ 70.26

LEGAL ADVERTISING INVOICE

SOLD TO: DEPT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE ID 83705

RECEIVED
JAN 26 2004
WATER RESOURCES
WESTERN REGION

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

346905

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KARL J DREHER, Director
Published statewide in the Idaho Statesman, Lewiston Morning Tribune, Times News, and Press Tribune on January 15 and 22 and in the Mountain Home News on January 21 and 28, 2004.

1 st

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho and under and by virtue of the laws of the State of Washington, paper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 105 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 346905Rocky Mou attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 01/15, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 01/15/2004, and the last publication thereof being on the 01/22/2004, and said 346905Rocky Mou was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J Lewis

State of Idaho
S.S.
County of Nez Perce

On this 23rd day of Jan in the year of 2004, before me, a Notary Public, personally appeared Karen J Lewis, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

SHERAL M. LANTZ NOTARY PUBLIC STATE OF IDAHO

Sheral M Lantz
Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires June 4, 09

Proof of Publication
The Post Register

RECEIVED
FEB 0 6 2004
WATER RESOURCES
WESTERN REGION

State of Idaho
County of Bonneville

I, ~~Dan Moore or~~ Danae Jacobsen, first being duly sworn, depose and say: That I am the ~~Production Supervisor or~~ Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for 2 consecutive (days) weeks, first publication having been made on the 15TH day of JANUARY 2004, last publication having been made on the 22ND day of JANUARY 2004 at the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Danae Jacobsen

Subscribed and sworn to before me, this 29TH day of JANUARY 2004

IVY BERRY
NOTARY PUBLIC
STATE OF IDAHO

Notary Public

My commission expires January 10, 2009

PUBLIC NOTICE

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KARL J. DREHER, Director

Published: January 15, 22, 2004

Graves, Lori

From: Saxton, Craig
Sent: Friday, January 16, 2004 3:05 PM
To: Graves, Lori
Cc: Lester, Steve
Subject: FW: Transfer Application Amendment for Transfer 68533

Hello Lori,

I got a call from a Lucinda Walker concerning the legal notice recently released in the paper about amending transfer application 68533 for Rocky Mountain Land and Cattle LLC. She just wants to know what it is all about. I went through the file (which I have given back to Sue) and I can't seem to find the most up to date version of the transfer amendment. I spoke with Steve about it and he suggested that since it was such a complex issue, it might be better to have you call her and address her questions.

John and Lucinda Walker
4775 E Montgomery Rd
King Hill, ID 83633
Wk: 336-2614 EXT: 14
Fax: 366-2611
E-mail: lucinda@ruraltelphone.com

Below is the E-mail I sent to her.

Thanks,

Craig

-----Original Message-----
From: Saxton, Craig
Sent: Friday, January 16, 2004 2:52 PM
To: 'lucinda@ruraltelphone.com'
Subject: Transfer Application Amendment for Transfer 68533

Hello Lucinda,

I did some checking on the file that we discussed. It is a complex issue that has been going on for some time. There are numerous water rights involved. I could not find an updated version of the amended application. I think to adequately answer your questions you will need to speak with the person that is processing the file. I will tell you that I don't THINK it involves a new well as I indicated before - but I am not positive on that. That is why I am going to pass this on to the person that does know about the issue - I do not want to give you inaccurate information.

I will pass your name and number onto the person reviewing the file and they will get back to you to answer your questions on Tuesday or early next week. This should still give you adequate time to file a protest if you wish to do so.

Thanks,

Craig L. Saxton
Sr. Water Resource Agent
Idaho Dept of Water Resources
(208) 334-2190

KING HILL RANCH
George L. Presley
6688 East Montgomery Road
King Hill, Idaho 83633-3368
January 10, 2004

Sue Kreger
Administrative Assistant
State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Re: Rocky Mountain Land & Cattle, LLC, Water Right Application

Dear Ms. Kreger:

I have received the amended application for Rocky Mountain Land & Cattle LLC.

My concern is Water Right Numbers 61-349, 61-353, 61-356 and 61-357; all diverted from King Hill Creek. I have lived on my ranch on King Hill Creek since 1972 and am familiar with the historic use of water from this drainage. Rocky Mountain is asking for far more water than they have the physical capability to divert. If you look at the use dates, there is one over-lapping period where they are asking permission to divert 22.32 cfs for the period of 10/15 to 11/15.

Everything they have asked for far exceeds any historical use that they have established. I have continually told Rocky Mountain to wait for high water and measure what they can put through their ditch. It seems to me that this is a fair solution to the problem. They have told me that they did take some measurements and had some engineering done on the ditch. I have tried for over two years to obtain this information from them; but to date, I have not received any co-operation.

I have no other alternative but to request that my protest remain in place.

Sincerely,

KING HILL RANCH

George L Presley

George L. Presley

Rocky Mountain Land & Cattle LLC, c/o Holden Kidwell Hahn & Crapo P.L.L.C., of PO Box 50130, Idaho Falls ID 83405 filed amended application no. 68533 with IDWR to transfer eight water rights with 1876 to 1968 priority dates from ground water, King Hill Creek and Clover Creek tributary to the Snake River totaling 26.94 cfs. The transfer proposes a combined irrigation system to be used within a permissible place of use (ppu), moderately reduced from a 930 acre ppu previously proposed and advertised. The amended transfer also includes two additional rights for King Hill Creek that were not part of the original transfer application. Water will be used at the current place of use just north of King Hill.

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KARL J DREHER, Director

Published statewide in the Idaho Statesman, Lewiston Morning Tribune, Times News, and Post Register on January 15 and 22 and in the Mountain Home News on January 21 and 28, 2004.

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

RECEIVED
JAN 12 2004
WATER RESOURCES
WESTERN REGION

January 8, 2004

Ms. Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Subject: Rocky Mountain Land & Cattle Irrigated Area Delineation

Dear Lori:

A check of the shapefile you requested showing the total irrigated acres for the Rocky Mountain Land & Cattle property near King Hill revealed that the total groundwater irrigation is actually **861.1** acres rather than the 850.7 previously indicated.

Somehow a significant portion of the acreage located in the NWNE of Section 1 of Township 5S, Range 10E was left out of the sum calculation. Rather than 26.2 acres irrigated in that tract there actually appear to be 35.4 acres irrigated. The remaining difference totaling 1.2 acres is the result of rounding errors within the other tracts. I have sent a copy of the GIS shapefile to you which you should have received by e-mail prior to your receipt of this letter.

Thank you for your understanding on this issue and if there is any further information I can provide, please let me know.

Sincerely,

Jason C. Helms, EIT

cc: Kent Foster

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

523-9518.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 7, 2004

JOHN WALKER
RT 1 BOX 9
KING HILL ID 83633

Re: Water Right Application(s)

Dear Interested Party:

Enclosed is a copy of amended application(s) for permit in the name of Rocky Mountain Land & Cattle LLC. You protested their original application and are still considered a protestant of the amended application. We ask that you please review the amended application and submit any comments you may have by February 2, 2004.

If you have any questions regarding the application(s), please contact this office.

Sincerely,
Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 7, 2004

GEORGE L PRESLEY
RT 1 BOX 12
KING HILL ID 83633

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Sincerely,
Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 7, 2004

FRANKLIN &/OR ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

Re: Water Right Application(s)

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Sincerely,
Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 7, 2004

KING HILL DOMESTIC WATER &
SEWER ASSN
KNIGHT C DUERIG
PO BOX 396
KING HILL ID 83633

Re: Water Right Application(s)

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Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 7, 2004

KING HILL IRRIG DIST
GARDNER BROWN
PO BOX 428
KING HILL ID 83633

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Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

January 07, 2004

Legal Notice Department
TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303

RE: Transfer No. 68533
Water Right No(s). 61-353 37-20344 61-349 61-356 61-357 61-2242 61-2243 61-7231

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before 02/02/2004. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

SCANNED
JAN 2004

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

January 07, 2004

Legal Notice Department
POST-REGISTER
PO BOX 1800
IDAHO FALLS ID 83402

RE: Transfer No. 68533
Water Right No(s). 61-353 37-20344 61-349 61-356 61-357 61-2242 61-2243 61-7231

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Sincerely

Sue Kreger
Administrative Assistant

SCANNED
JAN 7 2003
SCANNED
JAN 16 2003
SCANNED
JAN 2003

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

January 07, 2004

Legal Notice Department
LEWISTON MORNING TRIBUNE
505 C ST PO BOX 957
LEWISTON ID 83501

RE: Transfer No. 68533
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Administrative Assistant

SCANNED JAN 12 2004
SCANNED JAN 6 2003

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

January 07, 2004

Legal Notice Department
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

RE: Application for Permit No. 63-31690
Application for Transfer Nos. 68533 and 70620

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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Sincerely

Sue Kreger
Administrative Assistant

SCANNED
1-7-04

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IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

January 07, 2004

Legal Notice Department
MOUNTAIN HOME NEWS
PO BOX 1330
MOUNTAIN HOME ID 83647

RE: Transfer No. 68533
Water Right No(s). 61-353 37-20344 61-349 61-356 61-357 61-2242 61-2243 61-7231

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Sincerely

Sue

Sue Kreger
Administrative Assistant

SCANNED
JAN 7 2004

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 26, 2003

FREDRIC W PRICE
US BLM
1387 S VINNELL WAY
BOISE ID 83709-1657

Re: Application for Amended Application for Transfer No. 5850 in the Name of Rocky Mountain Land & Cattle LLC

Dear Mr. Price:

This letter is to acknowledge your withdrawal of protest of the above-referenced application.

There are still protests pending against the application therefore, we will hold this application in our protest drawer pending further processing.

If you have any questions please call this office.

Sincerely,

LORI GRAVES
Senior Water Right Agent

LG:sk

CC: Rocky Mountain Land & Cattle LLC
King Hill Irrigation Dist
King Hill Domestic Water & Sewer
Franklin &/or Elizabeth Powers
George Presley
US Dept of Justice
John Walker

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

In Reply Refer To:
7250 (933b)

November 21, 2003

RECEIVED
NOV 25 2003
WATER RESOURCES
WESTERN REGION

Ms. Lorrie Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Dear Ms. Graves:

RE: Withdrawal of BLM's Protest to Transfer No. 5850:
61-00349, 61-00353, **61-00356**, **61-00357**, **61-02242**, **61-02243**, **61-07231**, 61-07231, and 37-20344

Rocky Mountain Land & Cattle, LLC filed an Amended Application for Transfer of Water Rights numbered 5850 (hereinafter "Amended Transfer") with your office on July 2, 2003. The Amended Transfer removes federal public land from the place of use element of the affected water rights. Pursuant to review of the Amended Transfer and actions completed by the applicant on the ground, I have concluded that the United States, Department of Interior, Bureau of Land Management (hereinafter "BLM") protest issues have been resolved.

By this letter I state that I, Fredric W. Price, have the authority to act on behalf of the BLM, with myself as its agent, to the matters discussed herein. I hereby withdraw BLM's protest of Transfer No. 5850.

Sincerely,

Fredric W. Price
Water Rights Specialist

cc:
Bill Baker, Office Manager, Shoshone Field Office
Kent W. Foster, of attorneys for Rocky Mountain Land & Cattle, LLC
King Hill Irrigation District, c/o Gardner Brown, Manager
Franklin and Elizabeth Powers
George L. Presley
John Walker
Larry A. Brown, U.S. Dept. of Justice

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

In Reply Refer To:
7250/1230 (933) **P**

July 27, 2001
EMS
Instruction Memorandum No. ID-2001-063
Expires: 09/30/2002

To: ICT

From: State Director

Subject: Water Rights Delegation of Authority

Idaho State Office 1203 - Delegation of Authority Manual Supplement is amended to add adelegated authority to both the Deputy State Director for Resource Services and the Branch Chieffor Lands and Minerals to negotiate and settle Snake River Basin Adjudication (SRBA) waterrights issues. The SRBA water rights team leader (Gary Madenford) and senior water rightsspecialist (Fred Price) will continue to have authority to represent the BLM regarding all waterrights issues.

This delegation is effective immediately. The Idaho Delegation of Authority Supplement will berevised to reflect these changes.

Contact Jimmie Buxton if you have comments or questions regarding this issue.

Signed by: Authenticated by:
Martha G. Hahn Susanna M. Henry
Staff Assistant (ID-933)

cc:
ISO Water Rights Team
Larry Brown, DOJ Attorney
Mel Matlock (950)
Bill Ferry, Field Solicitor - Boise

Fax

11-24-03

TO: Lorrie Graves, IDWR-Western
Candice McHugh, Deputy Attorney General
Larry Brown, DOJ-ENRD
Gloria Baimbridge, CACI-Boise

FROM: Fred Price, BLM-Idaho State Office

RE: Withdrawal of BLM Protest to Transfer 5850 (68533)
Rocky Mnt Land & Cattle (formerly Barber-Caven)
61-00349,
61-00353,
61-00356,
61-00357,
61-02242,
61-02243,
61-07231, and
61-20344.

BLM's SRBA objections will remain until we see an NCAP.

Copy Rec'd 11-24-03

61-2242 etc

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

In Reply Refer To:
7250 (933b)

November 21, 2003

Ms. Lorrie Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Dear Ms. Graves:

RE: Withdrawal of BLM's Protest to Transfer No. 5850:
61-00349, 61-00353, **61-00356, 61-00357, 61-02242, 61-02243, 61-07231**, 61-07231, and 37-20344

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By this letter I state that I, Fredric W. Price, have the authority to act on behalf of the BLM, with myself as its agent, to the matters discussed herein. I hereby withdraw BLM's protest of Transfer No. 5850.

Sincerely,

Fredric W. Price
Water Rights Specialist

cc:
Bill Baker, Office Manager, Shoshone Field Office
Kent W. Foster, of attorneys for Rocky Mountain Land & Cattle, LLC
King Hill Irrigation District, c/o Gardner Brown, Manager
Franklin and Elizabeth Powers
George L. Presley
John Walker
Larry A. Brown, U.S. Dept. of Justice

W0300467

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

US BANK BUILDING
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P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
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E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

RECEIVED
JUL 0 2 2003
WATER RESOURCES
WESTERN REGION

June 30, 2003

Ms. Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Application for Transfer of Rocky Mountain Land & Cattle Co., LLC
No. 5850

Dear Ms. Graves:

Enclosed is our check in the amount of $89.20 for the additional filing fee pursuant to our telephone conversation. Thank you for your kind attention to this matter, please let us know if we may be of any assistance.

Yours very truly,

Kent W. Foster

Enclosures

G:\WPDATA\KWF\2368 ROCKY MOUNTAIN\Correspondence\2003\Lori Graves, 063003.wpd:cdv

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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Of Counsel
Fred J. Hahn

RECEIVED
JUN 11 2003
WATER RESOURCES
WESTERN REGION

June 9, 2003

Ms. Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Bosie, ID 83705-5082

Re: Application for Transfer of Rocky Mountain Land & Cattle Company, LLC
No. 5850

Dear Ms. Graves:

I believe you have been aware for some time of our intent to file an Amended Application for Transfer in the above referenced matter. On May 15, 2003, during an SRBA telephone status conference with Special Master Cushman, Candice McHugh and Don Shaff advised us that we could file the Amended Application for Transfer including the two late claims for water rights nos. 61-349 and 61-353, even though Director's Reports have not yet been prepared for them.

Pursuant to the promise I then made to Special Master Cushman, we are enclosing for filing the Amended Application in the above referenced matter. None of us knew whether you would decide that another Notice will need to be published, but Larry Brown, the attorney representing BLM, assured Special Master he would see to it that BLM withdrew its protest if necessary.

As you know, the protests of Mr. George L. Presley and Franklin and/or Elizabeth Powers, as well as that of BLM, are still pending. I believe King Hill Irrigation District

withdrew its protest at the pre-hearing conference, and we have (I believe) resolved the issues with BLM so, as Mr. Brown promised, the BLM protest can be withdrawn.

Brockway Engineering examined the ditch from King Hill Creek to Walker Reservoir to determine its capacity and stability, and Mr. Hal Hawkins, the CEO of Rocky Mountain, has had some conversations with Mr. Presley, but in our judgment his (and probably the Powers') protest will probably need to be resolved through either another pre-hearing conference or perhaps a formal hearing. Of course, if a new notice needs to be published, we cannot accurately predict what protests might be filed, and we will just have to wait to see what we will need to address.

We already sent you a copy of a letter from Brockway Engineering, dated January 16, 2003, in which Jeff Rau, an engineer with Brockway Engineering, addressed the allegation of the Brosses that the Clover Creek pump station of Rocky Mountain was pulling water away from their upstream pump station. In that same letter, Mr. Rau also indicated the capacity of the King Hill Creek Ditch from the creek to Walker Reservoir is 12.21 cfs. He referred to the ditch as the "King Hill Creek Pipeline" rather than ditch. It is our understanding that there is a pipeline, or extended culvert, in the ditch near its upper end which controls or limits the amount of water which can be conveyed through the remainder of the ditch, although the entire ditch is not in a pipeline.

If the capacity of the ditch is 12.21 cfs, that is nearly enough to deliver the combined rights of Rocky Mountain and Presley (all the Powers' rights are subsequent in priority to these) unless Rocky Mountain attempted to divert water under number 61-357 at the same time water is being diverted under all the other Rocky Mountain and Presley rights, in which case the ditch would only be about half large enough to carry the full amount. Although the period of use under 61-357 does appear to partially overlap the irrigation season, it is really a storage right, and it is unlikely much water will be diverted to storage between March 15 (the beginning of the irrigation season) and July 1 (the apparent end of the storage season under number 61-357).

Anyway, the pipeline at the upper end of the ditch restricts the amount that can be carried through the ditch to 12.21 cfs. (Jeff Rau, the engineer referenced above, opined that it might be possible to increase that amount to 12.46 cfs with modifications in the diversion structure, but the increase in the amount of flow will hardly justify the cost of such modifications). So, the fear Mr. Presley expressed at the pre-hearing conference, that Rocky Mountain would try to divert water under all of its rights, including 61-357, simultaneously and thus jeopardize the integrity of the ditch banks would appear to be baseless. It is

physically impossible to increase flows through the ditch without major modifications to the existing diversion works and ditch.

You will note that the place of use has been reduced in the Amended application to 850.7 total acres. That is based on an extensive and detailed analysis also done by Brockway Engineering. We are enclosing a copy of a letter, spreadsheet and map from Dr. Brockway containing the information. Obviously 850.7 acres is still 19.3 acres more than the 831.4 acres you previously calculated could be legally irrigated under the combination of the Rocky Mountain water rights from King Hill Creek, groundwater, Clover Creek and King Hill Irrigation District. For the last three years (including 2003) Rocky Mountain has leased extra water from the Water Supply Bank and contracted with the irrigation district to divert and deliver that water. We propose that the 850.7 acres be made a permissible place of use for all of the relevant rights. If a time comes when Rocky Mountain can no longer lease or otherwise acquire water under other rights or contract with the irrigation district to divert and deliver it or find some acceptable alternative for diversion and delivery, then it will need to keep 19.3 acres idle in such a year.

Please review this application and let us know what else we can do to facilitate its processing.

Yours very truly,

Kent W. Foster

Enclosure

c: Candice McHugh

G:\WPDATA\KWF\2368 ROCKY MOUNTAIN\Correspondence\Lori Graves 060903.wpd:cdv

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

RECEIVED
JAN 20 2003

January 16, 2003

Kent Foster
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

Re: Rocky Mountain Land & Cattle Company
King Hill Creek Pipeline & Clover Creek Pump Station

Dear Mr. Foster:

As requested, Brockway Engineering has collected additional field data to evaluate the King Hill Creek Pipeline & Clover Creek Pump Station and we offer the following information on both of these areas.

King Hill Creek Pipeline

As you are aware we had previously evaluated the King Hill Creek Pipeline and summarized our findings in a letter report to your office on December 13, 2002. In this report, there was some uncertainty concerning the maximum inlet operating water surface elevation. On January 13, 2003 we completed an additional site visit to the diversion and surveyed the high water mark (HWM) in the inlet box and estimated the realistic maximum water surface elevation obtainable with some modifications to the check structure. Using this data, we calculated the capacity of the pipeline under both conditions.

Based on visual observation and survey of the high water mark inside the diversion box, the estimated maximum historical flow rate calculated for the pipeline is 12.21 cfs which is only slightly higher than the value presented during our previous analysis. This value assumes the inlet water surface elevation is at the high water mark observed during our survey and the existing pipeline configuration. There were no other indications on the walls of the inlet structure which indicated that the water has operated higher than this elevation.

At the same time of our January 13 survey, we observed the area of the creek which currently contains the check structure for the King Hill Creek diversion. The check structure consists of tarps, plastic sheeting, and wood placed in the creek to create a pool for the diversion structure. These items are not permanent and are obviously modified seasonally to allow diversion into the inlet box and pipeline. The channel which contains the check structure is approximately 25 feet wide and contains basalt boulders ranging from 12" to 48" in diameter or larger. Construction of a higher check structure would be

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

possible with mechanical equipment, although access to the site would be very difficult. At the time of our survey, we estimated the maximum height of a check structure if it were constructed without using large mechanical equipment (hand labor). This elevation very closely matches the maximum water surface elevation observed in the inlet box. Assuming a check structure was placed at this higher elevation and assuming the overtopping elevation over the new check structure was 6" above the structure, the calculated flow rate in the pipeline was 12.46 cfs which is still not much more than the maximum calculated based on the inlet structure high water mark.

Clover Creek Pump Station

Rocky Mountain Land & Cattle diverts water from Clover Creek via a pump station located in Section 8, Township 05 South, Range 11 East. It is our understanding than a landowner upstream of this pump station is claiming that pumping at this pump station lowers the water surface in the creek at their property. On January 13, 2003, we completed a brief survey in the area and compared water surface elevations to evaluate this claim.

The pump station is located just upstream of a rock check structure located directly in Clover Creek. The check structure backs up water slightly to form what we termed "Pond #1". Pond #1 is approximately 150 feet long and approximately 20-30 feet wide. The pump station is located on the downstream end of Pond #1 in an area deepened to allow the placement of the vertical turbine pumps which make up the pump station. Although not operating at the time, the pump station likely will cause some fluctuation in water levels in this pond depending on the flow in Clover Creek and the amount diverted to the pump station.

Just upstream of Pond #1 is a substantial earthen check structure comprised of woody debris, a fallen tree, soil, and grass. This check structure impounds what we have termed "Pond #2". Pond #2 begins on the property owned by Rocky Mountain Land & Cattle and extends up into the claimants property. A fence clearly marked with "No Trespassing" signs runs across Pond #2 approximately 50 feet upstream of the check structure. The area between these two ponds is comprised of a significant waterfall area and gravel bar with gravel bottomed channel.

It is our understanding that the upstream land owner is claiming that pumping at the Clover Creek diversion significantly affects water levels in Clover Creek on his property. Based on our analysis and survey of the property up to the fence line, it is not hydraulically possible to affect levels in Pond #2 by pumping at the Clover Creek diversion. We did not survey water surface

elevations upstream of the fence line onto the claimants property due to the signs on the fence prohibiting access.

Based on our survey, the elevation difference from Pond #1 water surface to Pond #2 water surface is 1.83 feet. The check structure at the end of Pond #2 clearly allows the water to pass through critical depth as it flows over the waterfall into the channel to Pond #1. Once water passes through critical depth, it is impossible hydraulically to "affect" water levels upstream by making changes to conditions downstream of the critical flow zone. In other words, changes made in the elevation of Pond #1 will not affect Pond #2 levels at all. It is our professional opinion that pumping at the Clover Creek diversion is not adversely affecting Clover Creek levels on the claimants property.

As part of our analysis, we reviewed the historical photos of this area to determine if recent changes have occurred in this area. For our analysis we compared the pond areas using the 1987 infra-red and the 2001 FSA aerial photos. As you will see in the enclosed exhibit, the area is virtually identical in both photos indicating that the conditions in the area have not changed for over 15 years.

Conclusion

We hope this additional data is helpful in resolving some of these issues. Please review the data included in this letter report and contact our office if you have any questions or comments. Thank you and have a great day.

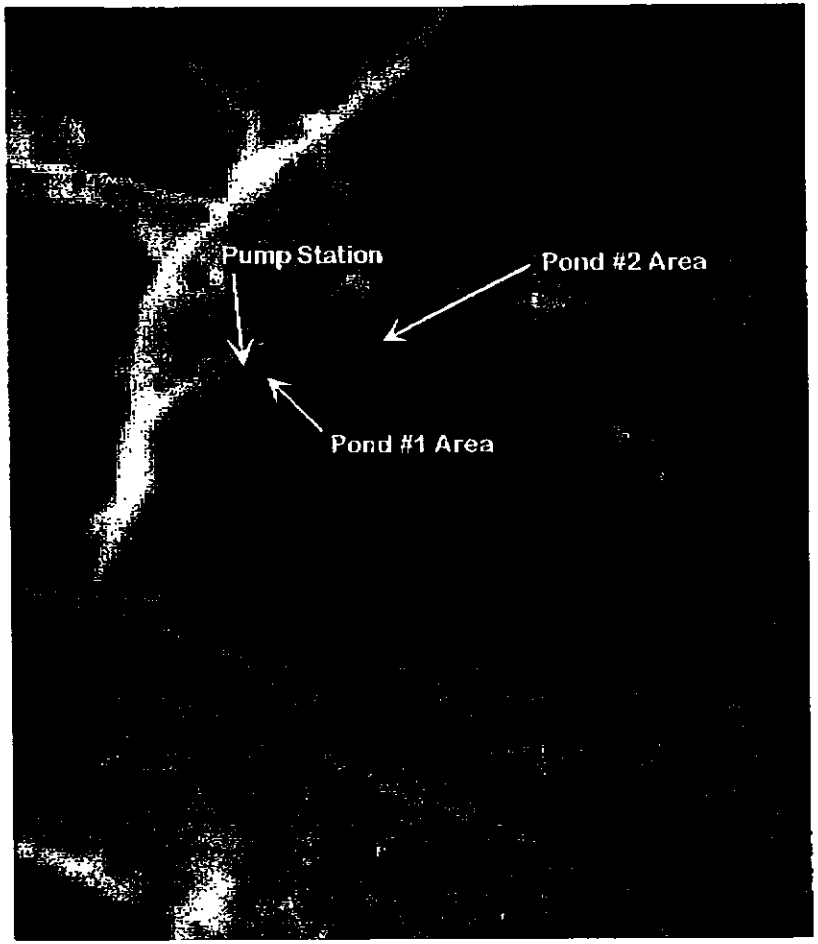
Sincerely,

Jeffrey S. Rau, P.E.

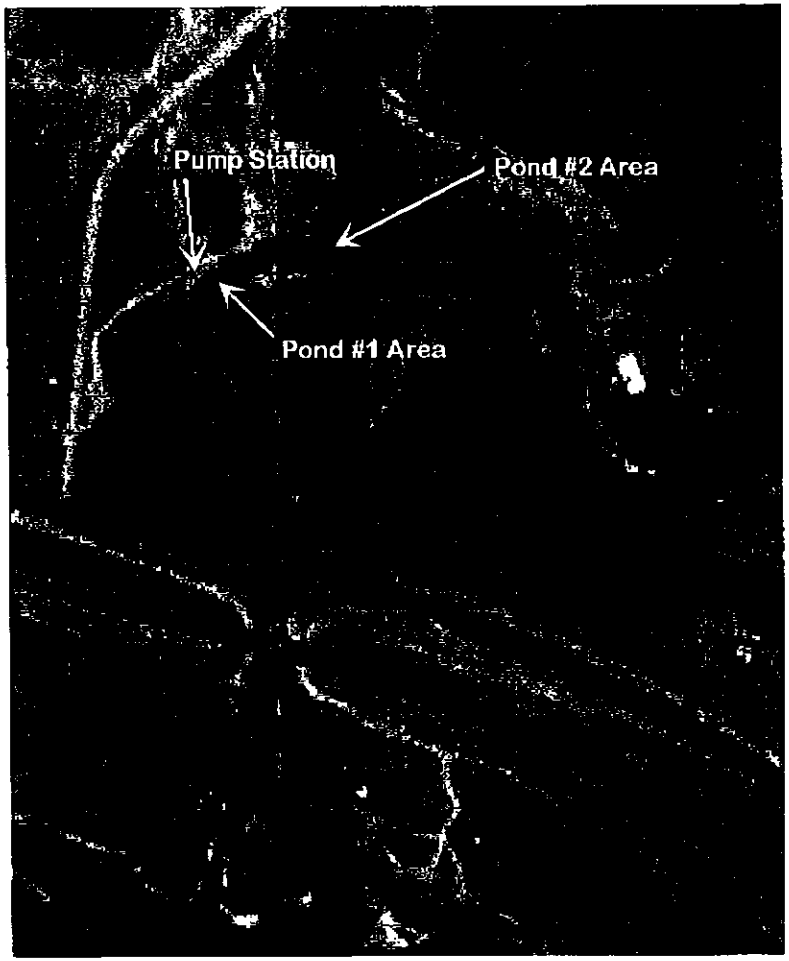
PROFESSIONAL ENGINEER REGISTERED 8015 1/16/03 STATE OF IDAHO JEFFREY S. RAU

Attachment: Clover Creek Pump Station Area Exhibit

Rocky Mountain Land & Cattle Company
Clover Creek Pump Station Area



1987 Infra-Red Photo



2001 FSA Aerial Photo

Brockway Engineering, PLLC
January, 2003

08-29-03 02:51PM FROM-HOLDEN KIMBALL HAHN & CRAPO T-619 P.006/006 F-054

Zoi | 61-2242 ?.

King Hill Domestic Water & Sewer Users Association

PO Box 396, King Hill, ID 83633
Knight C Duerig, Chairman
208-366-2519

RECEIVED
MAR 0 4 2002
WATER RESOURCES
WESTERN REGION

March 2, 2002

Idaho Water Resources
ATTN: Gary Spackman
2735 Airport Way
Boise, ID 83705-5082

Subject: Intervention in Transfer No. 5850, pursuant to rule 350 of IDAPA 37.01.01

Dear Mr. Spackman;

I realize that it is past the public hearing portion of Rocky Mountain Land and Cattle's (RMLC) application to transfer No. 5850, but I have recently gained knowledge of a situation that needs to be addressed.

As noted in the Notice of Violation dated July 5, 2001, RMLC is watering 37 acres illegally and this ground is located in S ½ SW, Sec 6 and the N ½ NW Sec 7, T5S, R11E, SESE Sec 1 and the NENE Sec 12, T5S, R11E.

As noted in my letter dated February 7, 2002, this acreage is located under a pivot that is located on top of a sandy hill above the old community landfill, which was supposedly shutdown by the EPA. This landfill site was used for years by many local folks and ranchers. There are stories of various hazardous waste items, such as paint and pesticides being dumped at that location. To my knowledge, this has never been cleaned up. I don't know that it has been used by any of the recent owners of the land, but then again I don't know that it hasn't.

My concern is the possibility that the pivot could blow-out some night and send a large amount of water down into this landfill, which is located approximately 400 feet from the wellheads for the King Hill Domestic Water Association, a Public Water System providing service to 35 families.

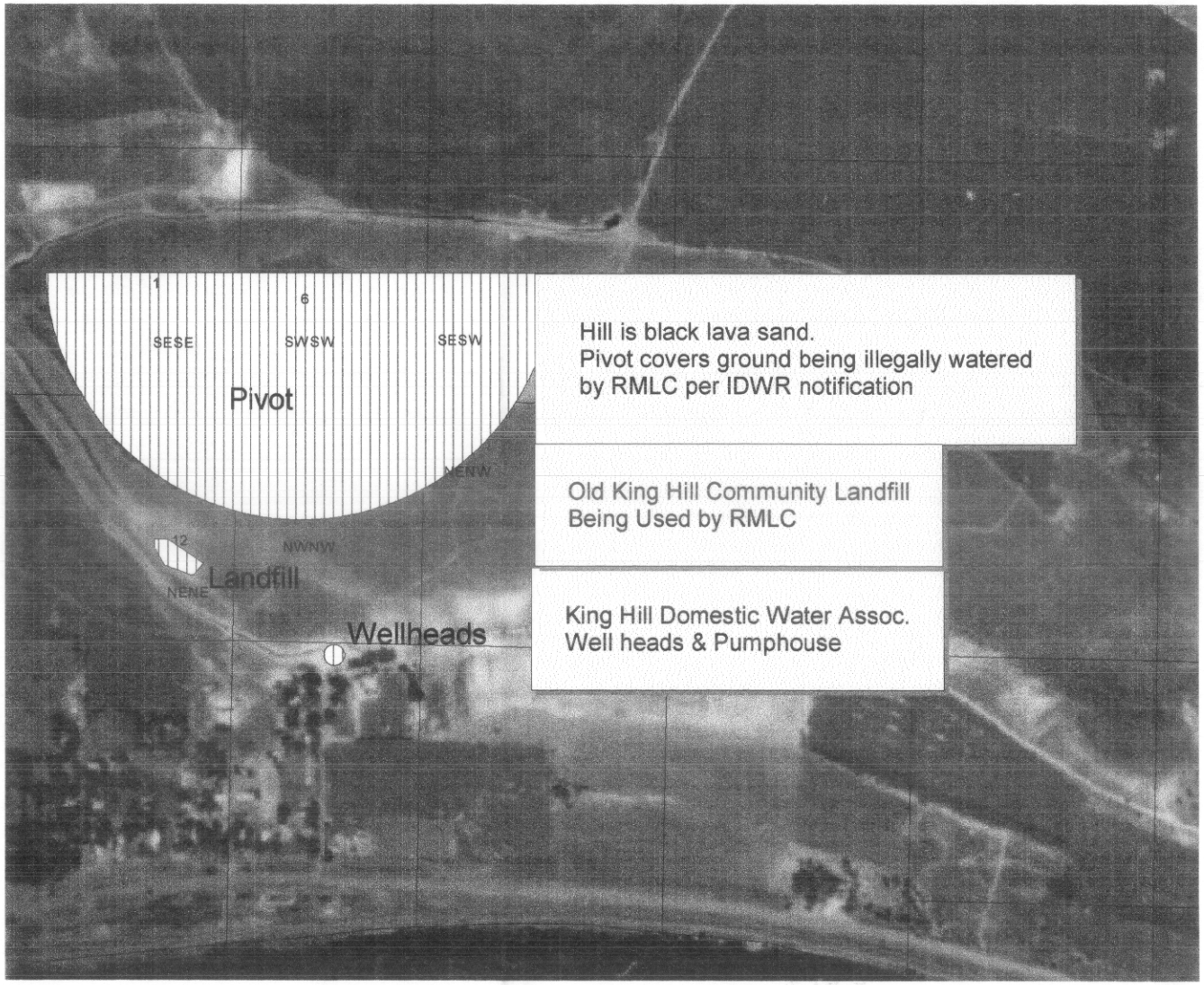
I fear that there is a very real potential hazard here that needs to be investigated.

Sincerely,

Knight C Duerig
Chairman

King Hill Domestic Water Assoc
Current Risk Assessment:
RMLC/P&Z Application for
Variance and CAFO

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FEB 0 8 2002
WATER RESOURCES
WESTERN REGION

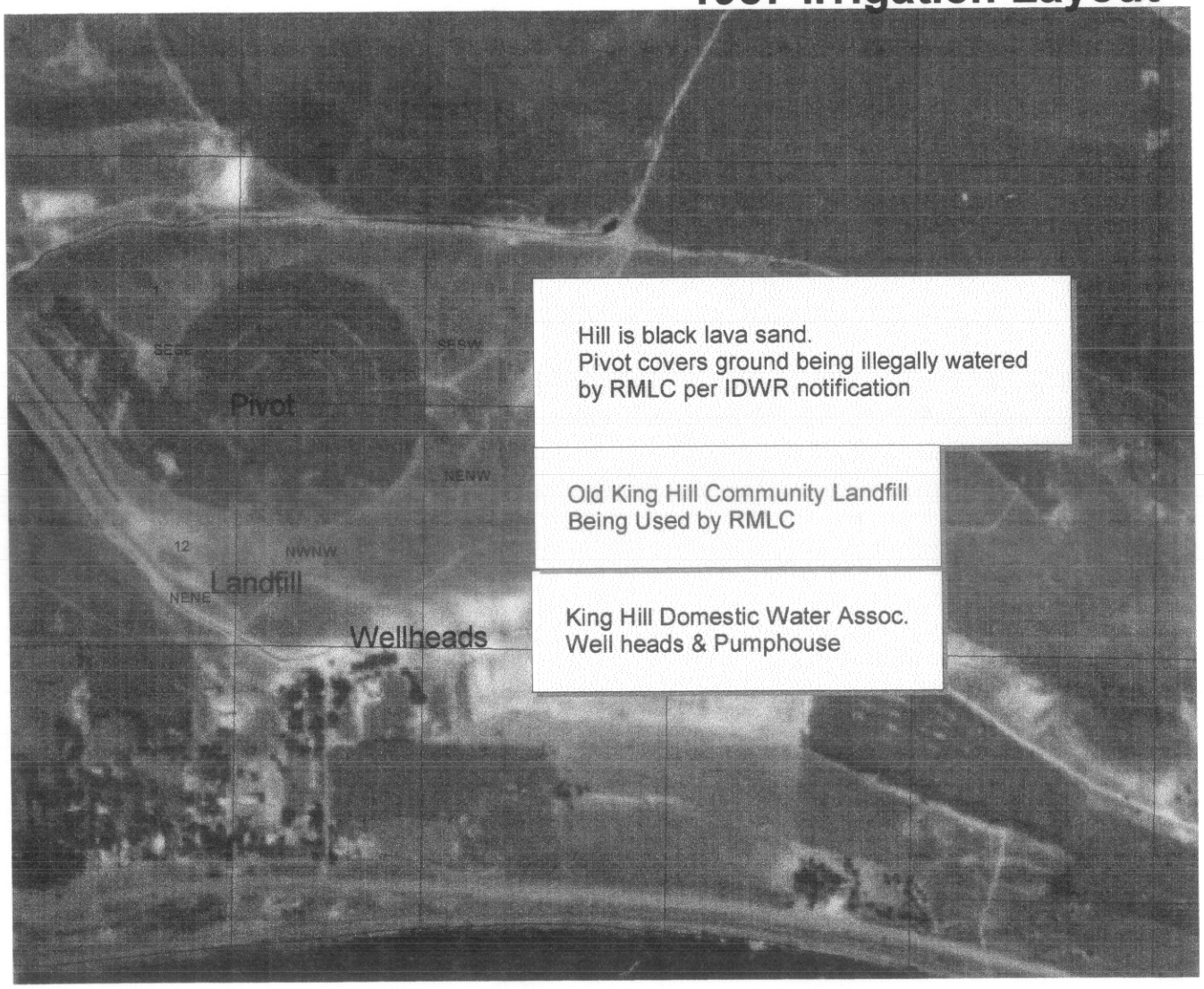


Rmlcdump.shp
T05s10e.shp
T05s11e.shp

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King Hill Domestic Water Assoc.
Risk Assesment:
1987 Irrigation Layout



0.4 0 0.4 0.8 Miles

N
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RECEIVED
FEB 0 8 2002
WATER RESOURCES
WESTERN REGION

King Hill Domestic Water
Association
P.O. Box 396
King Hill, Idaho 83633

February 7, 2002

IDWR
Western Regional Office
Lori Graves, Sr. Water Resource Agent
2735 Airport Way
Boise, ID 83705-5082

Dear Ms. Graves,

Although the comment period has ended for the RMLC water transfer, I wish to submit the following information as it also pertains to RMLC Variance and CAFO requests. According to the enclosed maps, the half pivot addressed in the NOTICE OF VIOLATION dated July 5, 2001 as containing the unauthorized irrigating of 37 acres, expanded watering dangerously close to the old King Hill land fill and domestic well heads. This land fill was used for decades for farmers and ranches of the area.

The continued irrigation threatens us with potential contaminants. The even greater threat vests in the Variance and CAFO application.

Unless there has been a resolution to this unauthorized irrigation, we request that the DWR oppose said Variance and CAFO application as well as immediately seek sanctions on further irrigation.

Respectfully,

K.C. Duerig
Chairman,
King Hill Domestic
Water Association

cc DWR: David Tutthill
DEQ: Steve West, Joe Baldwin
EPA: Warren McFall
Dept of Ag: John Chatburn, Jennie Beddoes

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Shoshone Field Office
400 West F Street PO Box 2-B
Shoshone, Idaho 83352-1522

RECEIVED
DEC 17 2001
WATER RESOURCES
WESTERN REGION

In Reply Refer To:

7250: Water Right Transfer 5850

December 14, 2001

Rocky Mountain Land & Cattle
2235 E. 25th Street
Suite 220
Idaho Falls, ID 83404

Attention: Hal Hawkins, CEO

As requested, we are sending this letter to document the general discussion which occurred during your informal fact-finding meeting with BLM employees Floyd DeWitt and Debbie Kovar during your December 05, 2001 visit to our office. We regret we were not able to send this letter sooner and trust this was not an inconvenience to you.

The general chain of command within your company was discussed so that the Bureau of Land Management (BLM) was better able to understand your organization. Mr. DeWitt described in considerable detail the reasons why our agency filed a protest to Water Right Transfer 5850 on November 02, 2000. That discussion also centered on the pre-hearing conference held on January 04, 2001 at the Glenns Ferry City Hall, in Glenns Ferry, Idaho. Ms. Kovar described her visit to the site of an on-going agricultural trespass on the eastern edge of your company's King Hill-area farm ground as being general in nature. It was intended to be an overall-familiarization learning experience for her seasonal employee. She was unable to say that any fences had been moved, or had not been moved, to stop continued farming of public land. There was some discussion of possible reasons why the old fences did not follow the true property lines. You expressed the attitude of your owner by saying that he wants to clear up any problems and to do things in an open and honest manner.

You expressed the interest of your firm in some kind of farming, wildlife habitat, or other agreement which would allow a center-pivot sprinkler to continue crossing public land. Both BLM employees stated that current Idaho BLM policy is to refrain from entering any new agreements to allow center-pivot crossings and/or irrigation of public land. BLM has taken this position because of events occurring in the large litigation referred to as the Snake River Basin General Water Adjudication, some very bad experiences with past permitted use, and because our agency is required to comply with State Water Law. If any irrigator expands their actual watering outside of those parcels specifically described in their water right(s) that is an illegal act under state law. This is the situation on approximately 7 ½ acres of BLM land in T. 05 S., R. 11 E., Boise Meridian, Sec. 5 NWSE, SWSE and Sec. 8 NENW. This trespass began with previous owners, not with your firm. We appreciate your company's apparent willingness to solve this

trespass problem.

The best solution to stop the above-described agricultural trespass is to define the private land/public land boundaries and relocate and/or construct legal fences along those lines and agree in writing to honor those lines by each entity, (Rocky Mountain Land & Cattle and the United States of America acting through the BLM) confining its activities to the property legally owned by that entity.

You, Ms. Kovar, and Mr. DeWitt agreed that the property lines need to be clearly marked on the ground and discussed ways of doing that. One alternative, the best, was ruled out. Cadastral Survey, the Official Land Survey of the United States, has a backlog of work scheduled for the next three or four years. The second alternative, marking a "STOP FARMING LINE" using the Global Positioning System would have to wait until a seasonal employee returns to work in May, 2002. The advantage is that it can be done relatively quickly but the accuracy is + or - three meters so it would not be reliable enough for on-line-fence-construction. Our experience with this type of demarcation is that it normally disappears the first or second year and has generally not been honored. The third alternative discussed was to have your firm hire a surveyor, licensed in the State of Idaho, to survey and set survey markers along your company's private property boundaries in, and adjoining, the above-described legal subdivisions. Both BLM employees said that BLM would honor that survey as being adequate for fence construction.

You expressed the desire to reach settlement on this agricultural trespass so that BLM would withdraw our protest of Water Right Transfer 5850. We too want to get this behind us. However, based upon recent experiences, our position at this time is to have all segments of the boundary fence(s) constructed and a clear showing, in the field, that modification of the irrigation system(s) is in place to prevent both crossing and irrigation of public land. In addition, we will require restoration of the public land by tillage for weed control and seedbed preparation; drilling a mixture of certified seed adapted to the site and prescribed by BLM; and a written plan signed by both Rocky Mountain Land & Cattle and BLM to prevent domestic livestock from grazing the rehabilitated acres until the planted species are fully established. When these requirements are met, BLM with formally withdraw our protest of Water Right Transfer 5850.

We appreciate Rocky Mountain Land & Cattle's expressed desire to solve this problem that you acquired when you bought the Pitchfork Ranch. We too want a long-term solution, which we have described above. We appreciate your visit to our office and look forward to working with you the future. Please feel free to call Floyd DeWitt at (208) 886-2206 if you have questions.

Sincerely,



Bill Baker
Field Manager

cc: Idaho Dept. Water Resources, Western Region
Idaho Dept. Water Resources, Southern Region

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
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IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED
FEB 2 2 2001
WATER RESOURCES
WESTERN REGION

February 20, 2001

VIA FACSIMILE

Attn: Lori Graves
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

Dear Lori:

Pursuant to our telephone conversation I am enclosing a copy of the letter we recently sent to the BLM to try to find out what it is we can do and should be doing.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\2368\Correspondence\LoriGraves.0220.ltr.wpd

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
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FEB 2 2 2001
WATER RESOURCES
WESTERN REGION

February 7, 2001

Mr. Bill Baker
Area Manager
U.S. Bureau of Land Management
P.O. Box 2B
Shoshone, ID 83352

Re: Rocky Mountain Land and Cattle, LLC

Dear Mr. Baker:

I am writing this letter to follow up on our brief telephone conversation of January 31, 2001. I believe you probably have an understanding of the purpose of our call, but perhaps a recitation of how we came to do so might be helpful, and we again solicit your counsel on how best to resolve the matter in a manner acceptable to your agency.

Our client, Rocky Mountain Land and Cattle, LLC, acquired ranch land at King Hill, Idaho, known locally as the "Pitchfork Ranch" in the spring of 1999. Portions of the ranch are in two different water basins for Idaho Department of Water Resources (hereafter IDWR) purposes, Basin No. 61 and Basin No. 37. When Rocky Mountain acquired the land, the Snake River Basin Adjudication (hereafter SRBA) processing within Basin 61 had progressed to a point where the recommendations of IDWR

Our office was first contacted, and we reviewed water rights documents, during the time of acquisition. Then, in the fall of 1999, we were approached regarding objections to the SRBA recommendations and a possible transfer proceeding resulting from changes Rocky Mountain had made in the irrigation system on the ranch. We first reviewed objections to the recommendation of IDWR for the Basin 61 rights by the Bureau of Land Management. The objections were to both place of use and point of diversion.

COPY

I have been involved in water rights work for many years, and during the processing of objections in the SRBA had become acquainted with Mr. Larry Brown, the Assistant U.S. Attorney who has been handling BLM objections in those proceedings. We had contact sometime in early 2000 regarding the BLM objections affecting Rocky Mountain, and I advised Mr. Brown we would be filing an Application for Transfer with IDWR anyway and so, in that application, we would change the point of diversion to coincide with the BLM GPS information, and remove the place of use overlaps from BLM land. There were two encroachments onto BLM land shown in the IDWR recommendations for most of the six Basin 61 water rights for the ranch; the first showed 3.7 acres on the east side of the ranch in the NW SE of Section 5, T 5 S, R 11 E and the second showed 3.2 acres, also on the east side, in the NE SW Section 8, T 5 S, R 11 E.

We filed our first transfer application with IDWR on January 31, 2000. IDWR decided that because one of the water rights for the ranch was in Basin 37, there needed to be an IDWR evaluation of that right by the Twin Falls Regional office of IDWR similar to an SRBA evaluation before we could proceed with the processing of the transfer application. That evaluation was finally completed in September of 2000, and we then re-filed the application after making adjustments to the Basin 37 right.

IDWR published notice of the Application in October and protests were filed. BLM, through Mr. Floyd P. Dewitt filed a protest on November 2, 2000. A prehearing conference was held before Mr. Gary Spackman of IDWR, as hearing officer, at Glenns Ferry on January 4, 2001. Mr. Dewitt was present, as well as Mr. Larry Brown acting as attorney for BLM. As I understood it, the BLM protests were (1) that the point of diversion for right number 37-02006C is on public land, and (2) that there is some 7½ acres of public land being farmed. I believe we were able to resolve the first issue to Mr. Dewitt's satisfaction; the point of diversion shown on the old water right, 37-02006C was a ditch, the headworks of which were probably on public land, and the old ditch was abandoned twenty or thirty years ago and a pump installed on the private land. The new water right, 37-20344 shows the new point of diversion at the pumps on our client's private land.

Also, with respect to the place of use in Section 5, our clients agreed to move the east fence in accordance with marks that have been placed by Mr. Dewitt. However, the other place of use overlap onto BLM land in Section 8 is more problematic. A pivot crosses the

northwest corner of the NE NW of that Section and has, for some years, irrigated some three to four acres in that corner. We do not know the entire history of this pivot; it was in place, in a line of four pivots, when our client acquired the land. Our client has inquired of the prior owner, Barber-Caven Ranches, who just sent us a copy of an approved "Land Use Application and Permit", a copy of which is enclosed with this letter. It appears it was to cover both overlaps, some 7.5 acres. We do not know the rest of the history relating to the use of the public land. Perhaps you will have a complete record at your office.

When we met with Mr. Dewitt and Mr. Larry Brown at Glenns Ferry on January 4, 2001, we expressed a desire and willingness to explore the possibilities of purchase, exchange or lease. We were given to understand that none of these options were possible, and Mr. Larry Brown suggested we apply for a special use permit to continue to farm the three to four acre corner of BLM ground where the pivot crosses. Mr. Brown informed the hearing officer that Rocky Mountain Land and Cattle, LLC would be filing an application for a special use permit to continue farming the corner, or in the alternative, to allow the pivot wheel or wheels to continue to cross that corner, and suggested that the hearing officer put the transfer on hold for about six months while the BLM processed the Special Use Permit Application. At that point, the manager for our client stated he knew of a similar situation where BLM had granted such a permit, but required the planting of corn on the public land for pheasants or other wildlife, and expressed a willingness to consider such an arrangement.

After the Prehearing Conference, I asked Mr. Dewitt who we should call to get an application form and to get the process started. He gave me the name of Debbie Kovar. When I returned to Idaho Falls, I informed the officers of Rocky Mountain Land and Cattle, and they indicated there was a company meeting scheduled for January 26 to which they wanted me to come for the purpose of explaining the transfer and bringing everyone up to date. I waited to contact Debbie Kovar until after that meeting and then called her on the morning of January 31, to inquire what we needed to do to obtain an application and get started. Her response was that BLM was not granting such permits and that she would need to talk with a supervisor to determine if we could even make such an application and get back to me. I was a little surprised because I thought I was following the course we had all agreed to at the prehearing conference in Glenns Ferry, so I called Larry Brown's office. He was in and indicated Mr. Bill Ferry was also present, so he put me on a speaker phone. They

advised me to call you, which I then did. It sounded like you were the one Debbie Kovar wanted to see, because, as I understood it, she had already spoken with you. You explained many of the difficulties to me, but I thought you also indicated you would get back to me. Thus far I have not heard from either Ms. Kovar or you.

Please do not misunderstand, I do not profess to know every course of action that may be possible, much less which one may be most desirable to your office. I am attempting to follow through in good faith with respect to what I understood we had agreed to with Mr. Brown at the Prehearing Conference in Glenns Ferry. Please be assured that our client is willing to consider purchase, exchange, lease or special use permit, including raising corn or some other crop satisfactory to BLM on the three to four acres, or even a crossing permit. When we are involved in litigation, as we are in the SRBA process, or in administrative proceedings, as we are with respect to our application to IDWR for transfer, I have come to rely pretty much on the representations of a party's attorney.

This is not to say that our position is that Mr. Brown made any promises or guarantees upon which we feel we can rely. But we did contemplate, and I believe the hearing officer contemplated, that an application for a special use permit was an appropriate course of action and would be filed, and that there was at least some reasonable likelihood that one would be granted, assuming the applicant was able to meet the appropriate requirements. From our discussions with Debbie Kovar, and then with you, I would have to say I understood that you were strongly resistive to our filing such an application and that I received quite strong mesages that such an application would not be granted under any circumstances. Although when I inquired of you if I was to interpret what you were saying as a refusal to allow such a filing or a predetermination of the ultimate outcome, and you said you were not saying either, I still came away with a definite conviction that an application for a special use permit would be a useless act.

Unless it is a totally unreasonable thing for a land owner who finds himself in the situation Rocky Mountain Land and Cattle is in to do, we would very much like to explore any possible options that are available, regarding continued use of, or at least crossing with the pivot wheel or wheels of, the northwest corner of the NE NW of Section 8, T 5 S, R 11 E.

We will look forward to hearing from you and we thank you in advance for your kind assistance.

Very truly yours,



Kent W. Foster

Enclosure
cc. Larry Brown, Esq.
G:\WPDATA\KWF\2368\Correspondence\Bill Baker01.ltr.wpd:ljm

Form 2920–1
(November 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004–0009
Expires: August 31, 1986

FOR BLM USE ONLY

Application Number

IDI 27074

LAND USE APPLICATION AND PERMIT

Sec. 302(b) of P.L. 94–579, October 21, 1976, 43 U.S.C. 1732

APPLICATION

1. Name *(first, middle initial, and last)*	Address *(include zip code)*	Phone *(include area code)*
CAVEN/BARBER RANCH	6874 FAIRVIEW BOISE IDAHO 83704	322-566

2. Attach map or sketch showing public lands for which you are applying

3. Proposed date(s) of use: . from Present July 1989 to thru Dec 31, 1991

4. Give legal basis for holding interest in lands in the state of _____ *(Check appropriate box and explain.)*

- ☐ Resident
- ☐ Corporation
- ☐ Local Government
- ☐ Other
- ☒ Partnership
- ☐ County
- ☐ State Government

5. Are the lands now improved, occupied, or used? ☒ Yes ☐ No *(If "yes," describe improvements and purposes, identify users and occupants.)*

under hay fields

6. Do you need access to the land? ☐ Yes ☒ No *(Describe needed or existing access)*

7a. What do you propose to use the lands for?

FARM FOR 3 years/hay

b. What improvements and/or land development do you propose? *(To complete application processing, engineering and construction drawings may be required.)*

NONE

c. What is the estimated capital cost?	d. What is the source of water for the proposed use?
$ 0	KING HILL IRR., WALKER Res, Deep well

I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith.

(Signature of Applicant) July 25, 1989 (Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

PERMIT

Permission is hereby granted to Barber/Cowen Ranches
of 6874 Fairview
to use the following-described lands: Boise, Idaho 83704

Permit Number IDI 27074

TOWNSHIP	RANGE	SECTION	SUBDIVISION
T. 5S.	R. 11E.	5 & 8	Portion of W½SE¼ Portion of NE¼NW¼

Meridian	State	County	Acres (number)
Boise	Idaho	Elmore	7.5 (formed)

for the purpose of Farming

and subject to the following conditions:

1990 & 1991 Fees to be Calculated Later

1. This permit is issued for the period specified below. It is revocable at the discretion of the authorized officer of the Bureau of Land Management, at any time upon notice. This permit is subject to valid adverse claims heretofore or hereafter acquired.
2. This permit is subject to all applicable provisions of the regulations (43 CFR 2920) which are made a part hereof.
3. This permit may not be assigned without prior approval of the authorized officer of the Bureau of Land Management.
4. Permittee shall not enclose roads or trails commonly in public use.
5. Authorized representatives of the Department of the Interior, other Federal agencies, and State and local law officials shall at all times have the right to enter the premises on official business.
6. Permittee shall pay the United States for any damage to its property resulting from the use.
7. Permittee shall notify the authorized officer of address change immediately.
8. Permittee shall observe all Federal, State, and local laws and regulations applicable to the premises and to erection or maintenance of signs or advertising displays including the regulations for the protection of game birds and game animals, and shall keep the premises in a neat, orderly, and sanitary condition.
9. Permittee shall pay the authorized officer, in advance, the lump sum of $ 158.00 (for 1989 crop year) for the period of use authorized by this permit or $Calculated Later dollars, annually, as rental or such other sum as may be required if a rental adjustment is made.
10. Use or occupancy of land under this permit shall commence within — months from date hereof and shall be exercised at least — days each year.
11. Permittee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and prevent pollution of waters on or in the vicinity of the lands.
12. Permittee shall not cut any timber on the lands or remove other resources from the land without prior written permission from the authorized officer. Such permission may be conditioned by a requirement to pay fair market value for the timber or other resources.
13. Permittee agrees to have the serial number of this permit marked or painted on each advertising display or other facility erected or maintained under the authority of such permit.
14. This permit is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the signing officer.
15. Permittee acknowledges, by signing below, that he/she knows, understands and accepts the terms and conditions under which this permit is issued.

16. Special conditions *(attach additional sheets, if necessary)*
~~ATTACHED~~ "Exhibit "A"

Permit issued for period

From 25 July, 1989

To 31 December, 1991

X _____ (Permittee)

_____ (Authorized Officer)

for Ann Morgan BLM 25 July, 1989
(Title) (Date)

INSTRUCTIONS

1. Submit, in *duplicate*, to any local office of the Bureau of Land Management having jurisdiction of the lands.
2. Applications for Land Use Permits will not be accepted unless notification of the availability of the land for non-BLM use *(Notice of Realty Action)* has been published in the Federal Register and for 3 weeks thereafter in a newspaper of general circulation. This provision does not apply in those situations where the publication of a *(Notice of Realty Action)* has been waived by the authorized officer.
3. If the annual rental exceeds $250 dollars per year, costs of processing the application *must* be paid by the applicant in advance.
4. The authorized officer may require additional information to process an application. Processing will be deferred until the required information is furnished by the applicant.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.) requires us to inform you that information is needed to process application for land use authorizations, pursuant to 43 CFR Section 2920. information shows if the applicant and proj use meet the requirements of 43 CFR Sectior 20.1. applicant *must* respond before he/she can granted an authorization to use public lands.

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
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RECEIVED
FEB 09 2001
WATER RESOURCES
WESTERN REGION

February 7, 2001

Gary Spackman
IDAHO DEPARTMENT OF
WATER RESOURCES
2735 Airport Way
Boise, ID 83705-5082

Re: Application for Transfer No. 5850
In The Name of Rocky Mountain Land and Cattle, LLC

Dear Mr. Spackman:

We have prepared and are enclosing with this letter a revised first page for the Application for Transfer No. 5850 on behalf of Rocky Mountain Land and Cattle, LLC. We have modified the reference to right number 61-00357 to include more of the information from the Director's Recommendation for this right. We hope this will clarify our intentions for the protestants who were confused by the former version of this page.

To our knowledge, this was the reason for the protests of Mr. George L. Presley and Franklin &/or Elizabeth Powers (John Walker, representative). We have sent a copy of this letter and the attachments to each of the protestants. If this correction is satisfactory to Mr. Presley and the Powers, we hereby request them to advise you in writing that their protests are withdrawn.

As we understood, Mr. Gardner Brown, manager of the protestant, King Hill Irrigation District, withdrew that protest orally, at the Prehearing Conference on January 4, 2001, at Glenns Ferry. If we are mistaken, or if something further needs to be done, we will appreciate it if you, or Mr. Brown will advise us.

We have attempted to initiate the filing of an application for a special use permit pursuant to the recommendation of Mr. Larry Brown, Assistant U.S. Attorney who came to the Prehearing Conference on behalf of the protestant, U.S. Bureau of Land Management, but have so far been unsuccessful. We will continue to attempt to work out a resolution satisfactory to that protestant and keep you advised.

Very truly yours,

Kent W. Foster

Enclosure

cc. Floyd P. Dewitt
Gardner Brown
Franklin &/or Elizabeth Powers
George L. Presley

G:\WPDATA\KWF\2368\Correspondence\Spackman01.ltr.wpd

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHT NOS. A37-20344, 61-00356, 61-00357, 61-02242, 61-02243, AND 61-07231 (TRANSFER NO. 5850) IN THE NAME OF ROCKY MOUNTAIN LAND AND CATTLE, LLC.	**PREHEARING ORDER**

On January 4, 2000, a prehearing conference was conducted at the Glenns Ferry City Hall, in Glenns Ferry, Idaho. Rocky Mountain Land and Cattle, LLC was represented at the prehearing conference by Kent Foster, Attorney at Law. The US Bureau of Land Management (BLM) was represented by Larry A. Brown, Attorney at Law. King Hill Irrigation was represented by Gardner Brown. Franklin &/or Elizabeth Powers were represented by John Walker. George Lee Presley represented himself.

After discussions with all parties, the parties agreed to delay a hearing for this application for a period of six months within which corrections to the application for transfer will be filed with IDWR, remaining issues with BLM will be negotiated, and additional discussions will take place with the King Hill Irrigation District regarding the irrigation of lands with King Hill Irrigation District water.

ORDER

IT IS HEREBY ORDERED that processing of application for transfer no. 5850 is interrupted until August 1, 2001.

IT IS FURTHER ORDERED that Rocky Mountain Land & Cattle, LLC shall submit an amended application for transfer properly describing the rights to be transferred, particularly water right no. 61-00357, which is a storage right not fully described in the application for transfer.

IT IS FURTHER ORDERED that Rocky Mountain Land & Cattle, LLC will move an existing fence to correct a trespass on BLM property, and will apply for a special use permit and right-of-way for a portion of a circular pivot system that is irrigating BLM property.

IT IS FURTHER ORDERED that IDWR, in conjunction with King Hill Irrigation District, will investigate to determine the total beneficial use on the lands irrigated by Rocky Mountain Land & Cattle, LLC. This investigation has been completed by Lori Graves of IDWR, and is enclosed with this prehearing order.

DATED this 7th day of February, 2001.

Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on this 7th day of February 2000 I mailed a true and correct copy, postage prepaid, of this Prehearing Order to those listed below:

Sue Taylor
Senior Secretary

ROCKY MTN LAND & CATTLE LLC
C/O KENT FOSTER
HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

FLOYD P DEWITT
US BUREAU OF LAND MGMT
WATER RIGHTS SPEC
PO BOX 2B
SHOSHONE ID 83352

KING HILL IRRIG DIST
GARDNER BROWN MGR
PO BOX 428
KING HILL ID 83633

FRANKLIN &/OR ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

GEORGE L PRESLEY
RT 1 BOX 12
KING HILL ID 83633

LARRY A BROWN
US DEPT OF JUSTICE
550 W FORT ST MSC 033
BOISE ID 83713

JOHN WALKER
RT 1 BOX 9
KING HILL ID 83633

MEMORANDUM

DATE: 1/26/01

FROM: Lori Graves ☺ LG

TO: Gary Spackman

RE: Transfer No. 5850, Rocky Mtn Land & Cattle (RMLC)

ACRES ALLOWED FOR TRANSFER PPU

RMLC, c/o Kent Foster, submitted a transfer 2/3/00, proposing a combined total of 38.91 cfs and 1104.3 acre PPU. This transfer included water right 37-04112 in the name of King Hill Irrigation District (KHID). We could not process the transfer with the inclusion of the District's water right without KHID being a co-applicant or providing consent.

Kent Foster then submitted an amended transfer 9/25/00, proposing a combined total of 24.98 cfs and a 930.4 PPU. This amended version excluded KHID's water right as well as acres that received only District water.

The transfer involves rights A37-20344, 61-00356, 61-00357, 61-02242, 61-02243 and 61-07231. The basin 61 rights have been decreed in the SRBA for a **767.2** PPU based on acres found irrigated in 1987.

In order to process the transfer, Doug Jones completed the review for claim A37-20344 and recommended **44** acres, which are separate from the 767.2 PPU.

RMLC combined their KHID water with their private water for irrigation of a large portion of their property. To manage and account for the amount of district water RMLC was using in their combined irrigation system, KHID assigned RMLC's shares to three pivots in that area. When the pivots run, KHID knows that district water is being used. KHID submitted a map and acre list for that area consisting of 415.7 acres, which includes the pivots' corners. All but **20.2** of the 415.7 acres were listed as part of the 762.2 PPU decreed for RMLC's private rights.

Based on the above information, RMLC should be limited to a PPU of 831.4 acres:

767.2 + 44 + 20.2 = 831.4 acres

FLOW RATES AND VOLUME ALLOWED FOR TRANFER

As noted in my transfer memo dated 10/6/00, RMCL listed right 61-00357 as 13.6 cfs for irrigation. The right is actually for 490 afa irrigation storage year round, 490 afa irrigation from storage from 3/15 to 11/15 and 13.6 cfs diversion to storage from 10/15 to 7/1.

Description of Rights After the Requested Change, Part 1, B, should read as follows:

Right No.	Priority	Amount	Use	Period of Use
A37-20344	1/25/1904	.88 cfs	Irr	4/15 to 10/15
61-00356	1/7/1901	6.4 cfs	Irr	3/15 to 11/15
61-00357	1/7/1901	490 afa	Irr Stor	1/1 to 12/31
		490 afa	Irr fr Stor	3/15 to 11/15
		13.6 cfs	Div to Stor	10/15 to 7/1
61-02242	7/28/1966	.94 cfs	Irr	4/1 to 10/31
61-02243	7/26/1966	1.6 cfs	Irr	4/1 to 10/31
61-07231	10/4/1968	1.2 cfs	Irr	4/1 to 10/31

Total amount being transferred is: **11.02 cfs for irrigation**
13.6 cfs Diversion to Storage (10/15 to 7/1)
490 afa Irrigation Storage

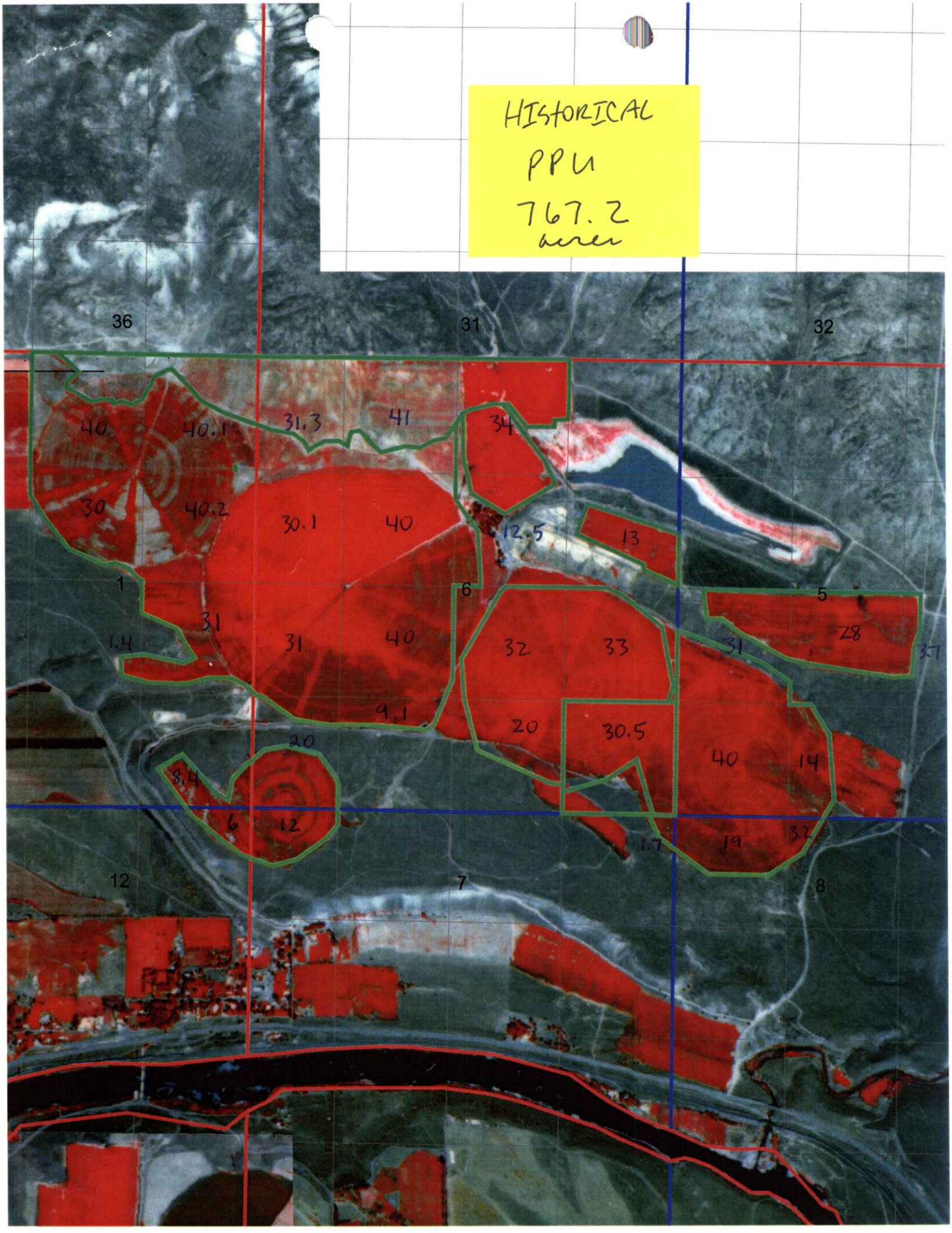
King Hill Irrigation District
Rocky Mountain Land Cattle
Assigned Water Right

King Hill Irrigation District
Assignment of water to Rocky Mountain Land & Cattle
15-Jan-01 (includes 71.25 over acres)

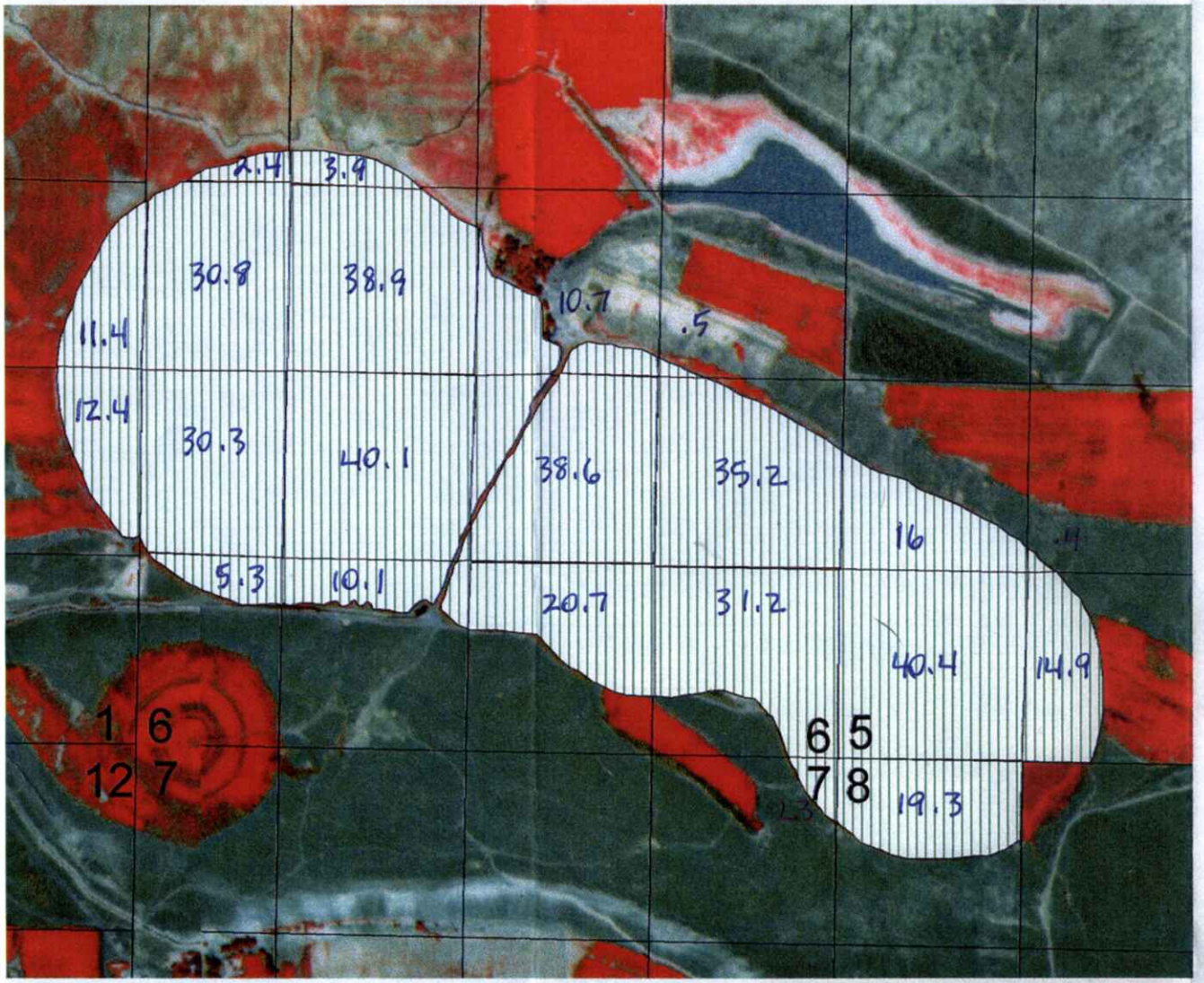
TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	10E	1				11.4									12.4				23.8
05S	11E	5									0.4	16.0	40.4	14.8					71.6
05S	11E	6			10.7	0.5	3.9	2.4	30.8	38.9	40.1	0.0	5.3	7.75	35.2	0.0	20.7	31.2	227.5
05S	11E	7	2.3																2.3
05S	11E	8						19.3											19.3
																		Total:	344.5

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	10E	1																	0.0
05S	11E	5																	0.0
05S	11E	6										30.30		2.35		38.60			71.25
05S	11E	7																	0.0
05S	11E	8																	0.0
																		Total:	71.25

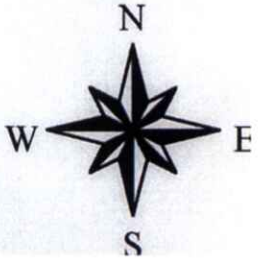
acres in addition to deeded 707.2 acres = 20.2


HISTORICAL
PPU
767.2
acres
36
31
32
40
40.1
31.3
41
34
30
40.2
30.1
40
12.5
13
1
6
5
31
1.4
31
40
32
33
31
28
37
9.1
20
30.5
20
40
14
8.4
6
12
1.7
19
3.2
12
7
8

Total Acres: 415.7



KHID assignment of water to RMLC.



RECEIVED
JAN 2 2 2001
WATER RESOURCES
WESTERN REGION

King Hill Irrigation District
PO Box 428
King Hill, ID 83633
208-366-2243
khid@bigfoot.com

January 18, 2001

Idaho Water Resources
Attn: Lori Graves
2735 Airport Way
Boise, ID 83705-5082

Dear Lori,

Here's the quarter-quarter description and the map of what we are allowing on the Rocky Mountain Land & Cattle ground as per our phone conversation.

If you have any questions, I'll be glad to try to answer them.

Sincerely,

K.C. Duerig

Lori Graves

King Hill Irrigation District
Assignment of water to Rocky Mountain Land & Cattle
Includes 44.11 over-acres. 12/01/2000

TWP	RNG	SEC		NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	10E	1																		
			122									0.2		39.1	40.00		0.40	25.90		105.60
			316				11.39									12.96				24.35
05S	10E	2																		
			122																12.90	12.90
05S	10E	12																		
			122					20.60	38.50	35.26										94.36
05S	11E	5																		
			316										8.61	40.4	14.9					63.88
			316oa									0.30								0.30
05S	11E	6																		
			316			3.99		3.91	2.36	30.8	38.9	39.31	30.54	5.31	6.08	6.95	4.49	4.75	29.5	206.91
			316oa													2.65	28.62	12.54		43.81
05S	11E	7																		
			316	2.27																2.27
05S	11E	8																		
			316					4.03	19.26											23.29
																			Total w/Over Acres	**577.67**

1" 1¼" 1½" BLM Ground

er Number	Class 1 Acres	Class 2 Acres	Class 3 Acres	Over-Acres	**Acres**	**Inches**
122	18.14	0.00	194.72		212.86	384.88
316	238.80	55.59	49.80	44.11	344.19	422.10
Totals	256.94	55.59	244.52	44.11	**557.05**	**806.98**

Total w/o	533.56
122 total	212.86
316 total	320.70

Assigned Water



0.8 0 0.8 1.6 Miles

N
W E
S

ROSTER OF ATTENDANCE

IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY, BOISE, IDAHO 83705

Re: **Application for Transfer No. 5850 in the Name of Rocky Mountain Land and Cattle LLC**

Place: **Glenns Ferry City Hall, 204 E. 2nd, Glenns Ferry ID 83623**

Date: **January 4, 2001**

Conducted by: **Gary Spackman**

NAME	ADDRESS
KENT N. FOSTER	PO Box 50130 IF 83405 523-0620
LARRY A. BROWN	USDOJ 550 W Fort MSC033 BOISE ID 83703
Floyd DeWitt	BLM, Shoshone, P.O. Box 2B, 83352
Jim Thomas	P.O. Box 330 Glenns Ferry Id. 83623
John Wallen	Rt. 1 P.O. Box 9 King Hill, Id 83633
Stan Phelps	P.O. BX 87 Glenns Ferry, Id. 83623
LEE PRESLEY	RT 1 Box 12 King Hill 83633
GARDNER BROWN	BOX 428 King Hill, 83633
K.C. Duering	Box 403 King Hill, 83633

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHT NOS. A37-20344, 61-00356, 61-00357, 61-02242, 61-02243, AND 61-07231 (TRANSFER NO. 5850) IN THE NAME OF ROCKY MOUNTAIN LAND AND CATTLE, LLC.	**NOTICE OF PREHEARING CONFERENCE**

On September 25, 2000, Rocky Mountain Land and Cattle, LLC. filed with the Department of Water Resources (Department) an application for transfer of water rights. The application was protested by the US Bureau of Land Management, King Hill Irrigation Co., Franklin &/or Elizabeth Powers (John Walker, representative), and George L. Presley.

The Department has set the contested case for a prehearing conference to be held on **Thursday, January 4, 2001, at 1:30 p.m. at the Glenns Ferry City Hall, chamber room, 204 E. 2nd, Glenns Ferry, Idaho 83623.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The prehearing conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 16th day of November, 2000.

Gary Spackman

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

3) Was the application made in good faith or for delay or speculative purposes?

4) Does the applicant have sufficient financial resources with which to complete the proposed project?

5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director□s consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of November 2000, I mailed a true and correct copy, postage prepaid, of this Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

ROCKY MTN LAND & CATTLE LLC
C/O KENT FOSTER
HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

FLOYD P DEWITT
US BUREAU OF LAND MGMT
WATER RIGHTS SPEC
PO BOX 2B
SHOSHONE ID 83352

KING HILL IRRIG DIST
GARDNER BROWN MGR
PO BOX 428
KING HILL ID 83633

FRANKLIN &/OR ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

GEORGE L PRESLEY
RT 1 BOX 12
KING HILL ID 83633

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.

3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by Gary S Date 11/6/00 Time 4:45pm

$25.00 fee Receipted by KG # W027127 Date 11/8/00

11/99

RECEIVED
NOV 0 6 2000
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Transfer #5850
2. Name of protestant GEORGE L. PRESLEY
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address RT 1 Box 12, King Hill, Id 83633
5. Service telephone no. 366-2061
6. Basis of protest (including statement of facts and law upon which the protest is based)

CLARIFYING King Hill Creek Point of Diversion AND Periods of USE

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? STRAIGHTEN out Conflict of Diversion of 13.6 cfs and periods of use.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 6th day of Nov, 2000.

George L. Presley
Protestant

Protestant's Representative

NOTE:

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7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by _____ Date 11/6/00 Time _____

$25.00 fee Receipted by KG # W0027129 Date 11/8/00

02/16/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 61-357

T.F.
Gary Buchton experienced 2nd

Stan Phelps experienced 1st

Hill slide in 70's and 80's due to saturated clay

Owner Type	Name and Address
Current Owner	ROCKY MOUNTAIN LAND AND CATTLE LLC AN IDAHO LIMITED LIABILITY CO PO BOX 73 HAGERMAN, ID 83332
Directors Report Owner	BARBER CAVEN RANCHES PITCH FORK RANCH 6874 FAIRVIEW RD BOISE, ID 83704 (208)322-5600
Attorney	KENT W FOSTER HOLDEN KIDWELL HAHN & CRAPO PO BOX 50130 IDAHO FALLS, ID 83405 (208)523-0620
Original Owner	VICTOR WALKER

Priority Date: 01/07/1901
Basis: Decreed
Status: Active

Source	Tributary to
KING HILL CREEK	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume	Subuse Code
IRRIGATION STORAGE	1/01	12/31		490 AFA	
IRRIGATION FROM STORAGE	3/15	11/15		490 AFA	
DIVERSION TO STORAGE	10/15	7/01	~~13.6 CFS~~ 6.4		
Total Diversion			~~13.6 CFS~~ 6.4	490 AFA	

30" pipe limitation out of Creek

Location of Point(s) of Diversion:

reservoir station

KING HILL CREEK	SWNE	Sec. 06	Township 05S	Range 11E	ELMORE County

IRRIGATION STORAGE Use:
Acre Limit: 767.2

IRRIGATION FROM STORAGE Use:
Acre Limit: 767.2

Place(s) of use:

Place of Use Legal Description: IRRIGATION FROM STORAGE ELMORE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05S	10E	1		NENE	40.1		NWNE	40		SWNE	30		SENE	40.2
				NESE	31		NWSE	1.4		SESE	8.4			
		12		NENE	6									
	11E	5		NESW	28		NWSW	31		SWSW	40		SESW	14
				NWSE	3.7									
		6		NWNE	34		SWNE	12.5		SENE	13			

		NENW	41	NWNW	31.3	SWNW	30.1	SENW	40
		NESW	40	NWSW	31	SWSW	20	SESW	9.1
		NESE	33	NWSE	32	SWSE	20	SESE	30.5
	7	NENE	1.7						
		NWNW	12						
	8	NENW	3.2	NWNW	19				

Total Acres: 767.2

Conditions of Approval:

1. C15 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.
2. W03 USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

Remarks:

1. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 320 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 767.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00356, 61-02242, 61-02243, 61-07231.

Comments:

Author	Date	Subject	Comment
SBOCK	10/28/98	PPU	MET WITH JIM CHAMBERS, PROPERTY MANAGER, AND JUAN, RANCH MANAGER ON 10/23/1998. DISCUSSED THE POU AND THE WAY THE SYSTEM OPERATES THEY AGREED THAT THE ENTIRE SYSTEM, OTHER THAN THE NORTHERN MOST PARCEL, 98 ACRES, CAN BE IRR. WITH KING HILL CR. WATER, G.W., OR KING HILL IRR. DIST. WATER. THE NORTH MOST PARCEL CAN ONLY GET KING HILL CR. WATER. THEY AGREED TO THE PPU. I AM RECOMMENDING ALL 767.2 ACRES A A PPU UNDER THIS RIGHT AND 61-00356. THE G.W. RIGHTS WILL ALSO SHOW A PPU, WITH THE EXCEPTION OF THE 98 ACRES. THE PPU WILL SHOW MORE ACRES THAN CLAIMED IN BASIN 61, BUT THIS INCLUDES IRR. ACRES WHERE WATER IS COMINGLED WITH KING HILL IRR. DIST. I AM NOT INCLUDING KING HILL IRR. DIST WATER ON ACRES WHICH ARE NOT SERVICED BY OTHER MEANS.
AJU10-JS	11/21/98	AJU10 CONDITION UPDATE	CONDITION CODE(S) C15 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.
DBUFFING	2/25/99	NAME CHANGE - OWNERSHIP CHANGE	THE DATA IN THE NAME FIELD WAS CHANGED TO SHOW THIS RIGHT HAS AN OWNERSHIP CHANGE.
SSHERMAN	2/29/00	NOTICE OF APPEARANCE	NOA REC'D 2/28/00 FROM KENT FOSTER REPRESENTING ROCKY MOUNTAIN LAND & CATTLE.

Dates:

Licensed Date:
Claim Received Date: 10/27/1995
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Decreed Date: 06/02/1904
Date Filed with Court:
Objection Filed Date: 6/15/99
SF5 Filed:
Special Master Recom Signed Date:

Element Reviewed/Verified Dates: No dates found

Other Information:

Receipt Number(s): W020042

11/99

RECEIVED
NOV 0 6 2000
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Transfer no. 5850, Rocky Mountain Land & Cattle
2. Name of protestant Franklin J. Powers & Elizabeth J. Powers
3. Protestant's Representative for service (If different than protestant)
   Elizabeth J. Powers (John Walker)
4. Service mailing address 3154 So. Crabapple Lane, Boise, ID 83706
5. Service telephone no. (208) - 336 - 1029
6. Basis of protest (including statement of facts and law upon which the protest is based)
   If transfer is approved, protestants water rights will be injured.

   (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Deny the transfer.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 6th day of NOVEMBER, 2000.

Elizabeth Powers
Protestant

Protestant's Representative

SCANNED
JUN 2 1 2005

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

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3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

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5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by Gary S Date 11/6/00 Time 4:45pm

$25.00 fee Receipted by KG # W027127 Date 11/8/00

SCANNED
JUN 2 1 2005

11/99

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NOV 0 6 2000
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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1. Matter being protested Transfer No 5850
2. Name of protestant King Hill Irrigation District
3. Protestant's Representative for service (If different than protestant)
   GARDNER BTown Mgr.
4. Service mailing address P.O. Box 428 King Hill, Id 83633
5. Service telephone no. 208-366-2243
6. Basis of protest (including statement of facts and law upon which the protest is based)
   Lack of information on what ground is being dried up And what ground is being watered 1st time. Also the use of 2-125 hp pump station to water 40+ Acres.
   (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? More info on complete system to water All of ground owned by RMLEC Make sure Sufficient Controlling works Are put in place.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 6th day of Nov, 2000.

King Hill Irrigation District
Protestant

Gardner Brown
Protestant's Representative

NOTE:

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6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by _____ Date 11/6/00 Time _____

$25.00 fee Receipted by KG # W0027128 Date 11/8/00

11/99

RECEIVED
NOV 0 2 2000
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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1. Matter being protested Transfer No. 5850, Rocky Mountain Land & Cattle
2. Name of protestant United States of America acting through the Bureau of Land Management.
3. Protestant's Representative for service (If different than protestant)

   Same as above. Attention: Floyd P. DeWitt, Water Rights Spec.
4. Service mailing address P.O. Box 2B Shoshone ID 83352
5. Service telephone no. (208) 886-2206 Front Desk ; (208) 886-7272 Floyd DeWitt's Desk
6. Basis of protest (including statement of facts and law upon which the protest is based)

   Two basis of protest:
   (1) Point of Diversion for 37-02006C in Weekly Water Right Listing dated 10/11/00 should be deleted from public land (Cont. p 3).
   (2) Ongoing agricultural trespass on BLM land (Continued p. 4).

   (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? (1) Correct legal description for POD of 37-02006C so it is not on public land managed by BLM.

   (2) Cease farming approx. 7½ acres of public land; reconstruct the fence on the Private land/BLM land boundary; plant the public (Cont. P. 5)

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this _____ day of November, 2000.

USA, Dept. of Interior, Bureau of Land Mgmt.
Protestant

Floyd P. DeWitt, Water Rights Specialist
Protestant's Representative

$25.00 protest fee paid by USDI-BLM
Convenience Check No. 15. F.P.D.

U.S. DEPARTMENT OF TH' ERIOR
BUREAU OF LAND M. JEMENT
SHOSHONE DISTRICT

FLOYD P. DeWITT
SOIL, WATER & AIR
SPECIALIST

P.O. BOX 2-B
400 WEST F STREET
SHOSHONE, IDAHO 83352

FAX (208) 886-7317
(208) 886-2206

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

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6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by LM Date 11-2-00 Time 4:08

$25.00 fee Receipted by LM # W027118 Date 11-2-00

Item 6. Basis of Protest:

(1) Point of Diversion (Continued from page 1).

Offered as evidence:

a. King Hill, Idaho 7½ minute USGS map showing POD for 37-02006C as T 05 S R 11 E S 10 NENW Please note the word "Abandoned" along the ditch. Offerred as Exhibit A.

b. Order Granting Change of Point of Diversion No. 247 dated July 23rd., A.D. 1959. Offered as Exhibit B (3 pages).

c. Hand-drawn map which is the Fourth and final page (machine copy) of Robert E. Robertson's application for a change of point of diversion, dated June 30, 1959. Offered as Exhibit C.

d. Colored Master Title Plat (MTP), dated 11/17/1998, the official Land Office Record of the United States. Yellow shows public land managed by BLM. For T 05 S R 11 E B.M. Offered as Exhibit D.

Item 6. Basis of Protest:

(2) Ongoing agricultural trespass on BLM land (continued from page 1).

Offered as evidence:

a. Marked-up aerial photo 2-306 dated July 1, 1975 on BLM land in T 05 S R 11 E: S 05 NWSE, SWSE
S 08 NENW

*Note: IDWR should have copies of SRBA objections by BLM for the following claims:

All of these Claims are part of Transfer 5850, but do not include the Public land.

- 61-00356
- 61-00357
- 61-02242
- 61-02243
- 61-07231

All include the above-described public land except S 05 SWSE, a portion of which is also being farmed.

Photo 2-306 is offerred as Exhibit E.

b. Barber/Caven Ranches (now Rocky Mountain Land & ~~livestock~~ cattle J.P.D.) Photo Summary with six photos. Ony Photos 1-4 apply to the agricutural trespass. Offered as Exhibit F. (see also Exhibit D).

Item 7. What would resolve your protest

... land to appropriate seed mixture determined by BLM, at the appropriate time of year (Fall); make monetary settlement with BLM for unauthorized agricultural use.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application of ROBERT E. ROBERTSON of Route #1, King Hill, Idaho For a Change of Point of Diversion on Clover Creek, Elmore County, Idaho.	ORDER GRANTING CHANGE OF POINT OF DIVERSION NO. 247

WHEREAS, On June 30, 1959, in the Department of Reclamation of the State of Idaho, at Boise, Idaho, this application of Robert E. Robertson, for a change of point of diversion on Clover Creek, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application, shows that a more economical use of the water will be obtained by such change, and that no other water user will be injured thereby:

NOW, THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is HEREBY GRANTED, and that a Certificate of Change of Point of Diversion be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed, at Boise, Idaho, this 23rd day of July, A.D. 1959.

Geo. N. Carter 37 2006

GEO. N. CARTER
State Reclamation Engineer

Exhibit B
Page 1 of 3

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE NO. 247 OF AUTHORIZED CHANGE IN POINT OF DIVERSION OF LICENSE AND TRANSFERRED WATER RIGHT

THIS IS TO CERTIFY that Robert E. Robertson, Route #1, King Hill, Idaho, is the owner of 1.96 cubic feet per second of the waters of Clover Creek, Elmore County, Idaho, said water right being by virtue of license to F. W. Fricke and Henry W. Hafer, said license bearing date of Jan, 25, 1904, and being appurtenant to the following described lands to-wit:

E½ of Lot 4, all of Lot 5, and SE¼ of the NE¼ of Section 7; and the SW¼ of the NW¼, and Lot 1, of Section 8, Township 5 South, Range 11 E. B. M.

That said license has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 1 of Licenses at Page 273 thereof;

That the said Robert E. Robertson has become the owner of said water right by mesne conveyance, and by virtue of said License #461, and by Transfer of Water Right #88, filed in this Department under date of February 26, 1912;

And that now, upon the application of the said Robert E. Robertson, of Route #1, King Hill, Idaho, for Certificate of Change of Point of Diversion of 1.96 cubic feet per second of the waters of Clover Creek made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change said point of diversion is HEREBY GRANTED;

That said change of point of diversion will not modify in effect said water right or place of use;

Said water is to be limited at any given time to an amount actually needed and beneficially used, and shall not exceed the following amount, to-wit:

1.96 cubic feet per second with priority of (March 6, 1908;) 1-25.04

That said water right is appurtenant to the following described lands:

E½ of Lot 4, all of Lot 5, and the SE¼ of the NE¼ of Section 7, and the SW¼ of the NW¼ and Lot 1, in Section 8, Township 5 South, Range 11 E. B. M.

That the water right hereby described has heretofore been diverted from Clover Creek with point of diversion in the NE¼ of the NW¼ of Section 10, Township 5 South, Range 11 E. B. M., and conducted through the Fricke ditch;

Exhibit B
Page 2 of 3

That the water right hereby described will hereafter be diverted from Clover Creek in the NW¼ of the SW¼ of Section 8, Township 5 South, Range 11 E. B. M. by pipe and new ditch.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 23rd day of July, A.D. 1959.

Geo. N. Carter

GEO. N. CARTER
State Reclamation Engineer

37 2006

Exhibit B
Page 3 of 3

Name of Applicar

R 11 E

SEC. SEC. SEC. SEC. SEC. SEC.

T 5 5 S

SEC. 7 SEC. 8 SEC. 9 SEC. 10 SEC. 11 SEC.

New ditch

Pipe

Pump- New Point of D

Fricke Ditch

old Point of Diversion

Clover Creek

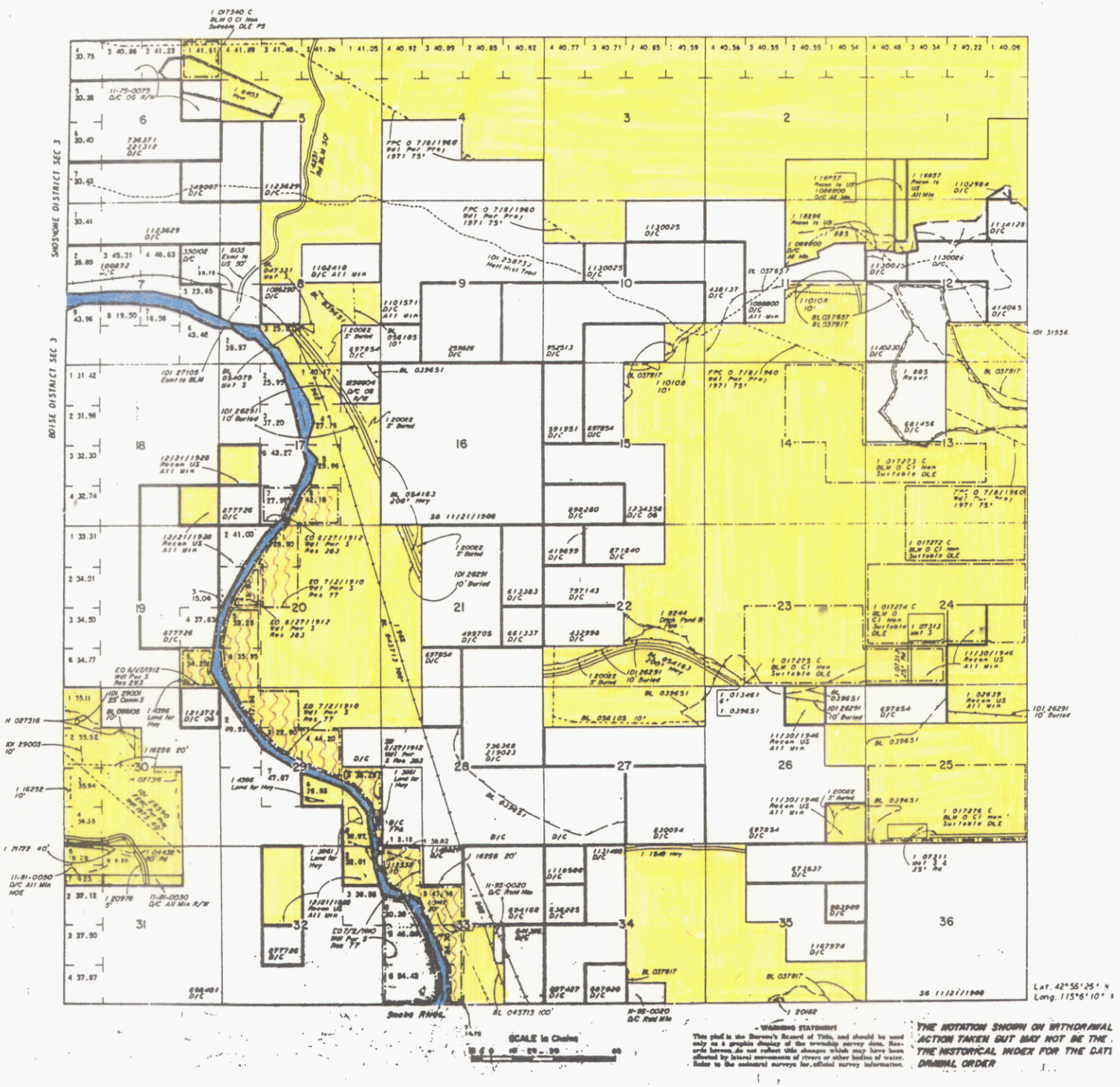
SEC. SEC. SEC. SEC. SEC. SEC.

Exhibit C
page 1 of 1

Scale: 2 Inches—1 Mile. Draw Map in Ink.

TOWNSHIP 5 SOUTH RANGE 11 EAST OF THE BOISE MERIDIAN, IDAHO

ELMORE COUNTY 039



MTP Card Date 11 /17 /1998
Reviewed by: Ginger Koonce
Date of Review 02/09/1999

Exhibit D
Page 1 of 1

N

T. 4 S. R. 11 E.B.M.

32 33 34

Flagged 1/4 corner

T. 5 S. R. 11 E.B.M.

2-306

PVT

point is 188' west of fence Line

5 4 3 6

PVT

PVT: METAL Fence post

flag

Metal Fence Post

Flagged 1/4 corner

fence is 20' south of proper Line

NOTE: ALL LINES ARE APPROXIMATE

9 10

8 9 10

Lot 2 25.90

Lot 1 40.17

18 17 16 15

JUL 1 1975

Exhibit E
Page 1 of 1

Barber/Caven Ranches Photo Summary

POUs on Public Land	Photo Description
POU #1 - T05S R11E Sec. 05 NWSE 3.7	Photo 1 - 6/7/99, Floyd DeWitt, Roll 1, Frame 2. Looking south. Agic. trespass on left (east) side of orange marker
Both POUs	Photo 2 - 6/7/99 Ginger Koonce, Roll 1, Frame 5. Cadastral Survey Quarter corner common to Secs. 5 & 8. Note pink ribbon.
POU # 1	Photo 3 - 6/7/99 Ginger Koonce, Roll 1, Frame 6. Looking north. Agric trespass on right (east) side of Cadastral Survey marked with pink ribbon.
POU #2 - T05S R11E Sec. 08 NENW	Photo 4 - 6/7/99 Ginger Koonce, Roll 1, Frame 8. Looking west. Agric. trespass on left (south) side of approx. property line drawn in ink on photo.

B/C R. Photo Summary (Continued)

POD & RW on Public Land	Photo Description
Pre-FLPMA POD, Source King Hill Creek	Photo 5 - 6/7/99 Floyd DeWitt, Roll 1, Frame 8. Looking Southeast across King Hill Creek. Concrete diversion structure with turn-style adjustable head-gate shows in center of photo. Copious riparian woody vegetation made photography difficult. King Hill Creek flowing at 80-100 cfs (estimated)
"Walker Ditch" (piped portion). There is a valid 25' right-of-way across public land all the way to Walker Reservoir.	Photo 6 - 6/7/99 Floyd DeWitt, Roll 1, Frame 10. Looking northwest. Lee Presley Ranch irrigated field and farmhand home show in upper right. Riparian vegetation along King Hill Creek barely visible in lower left portion of photo

— end —

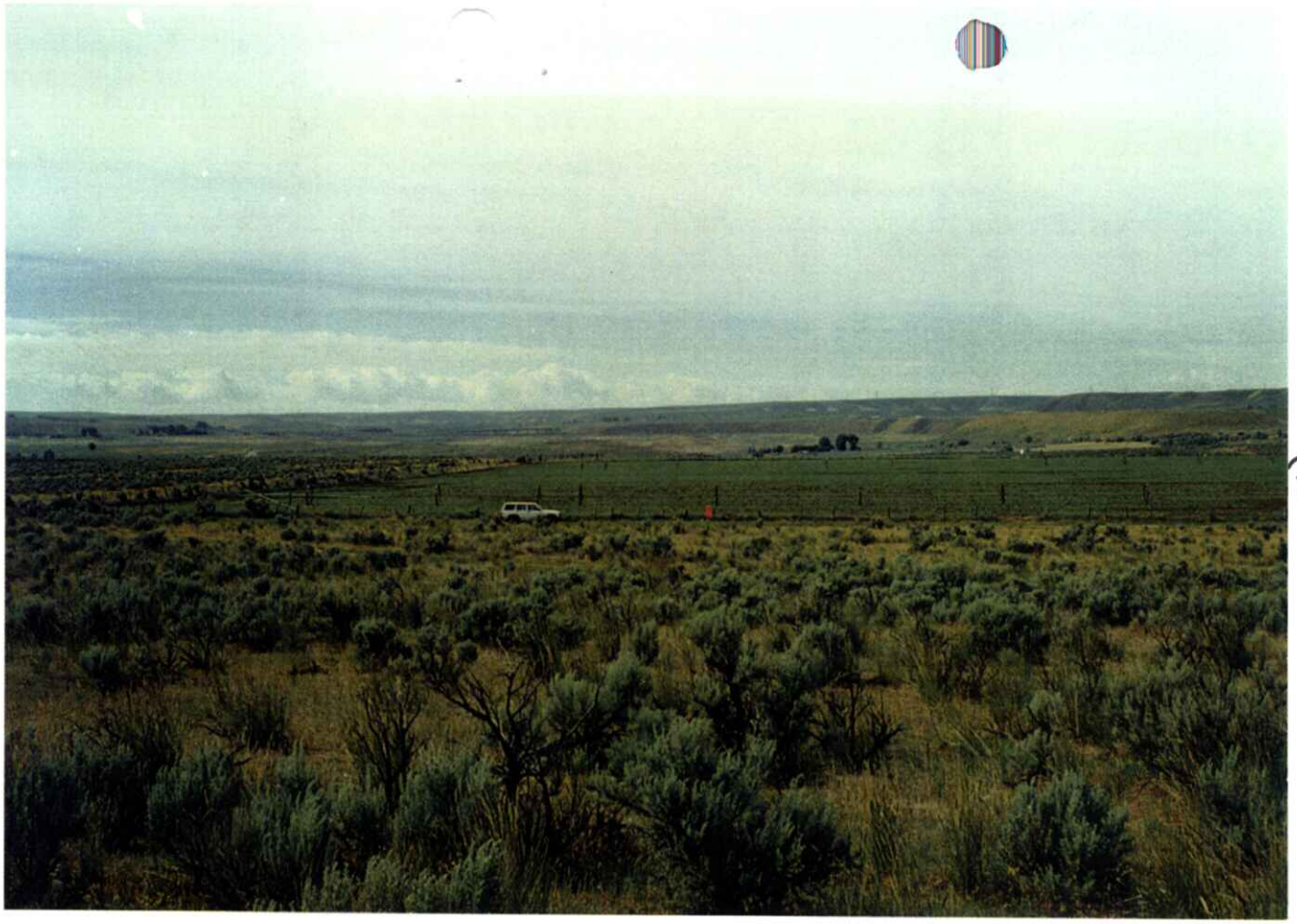


Photo 1



Photo 2

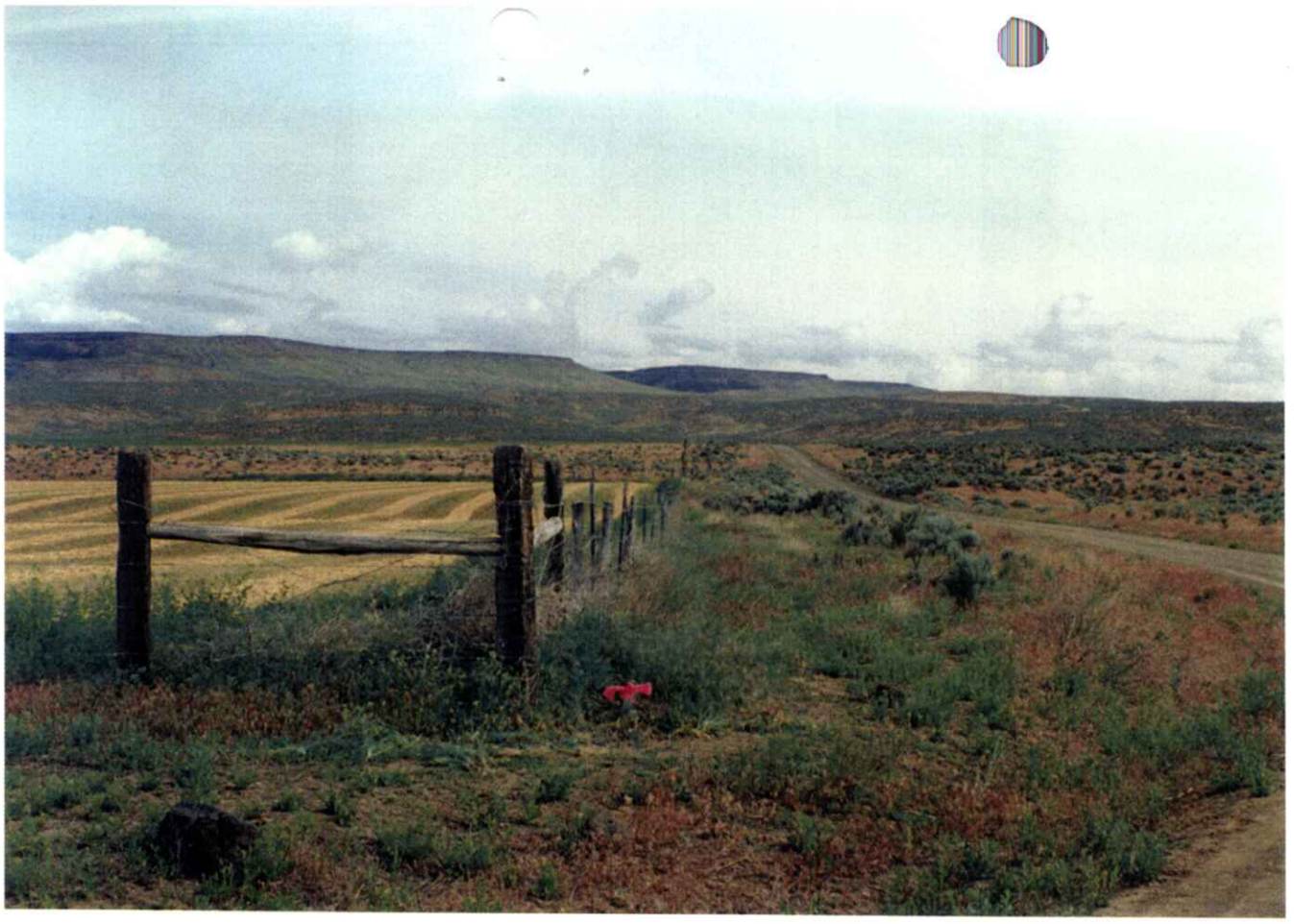


Photo 3



Photo 4



Photo 5



Photo 6

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 15, 2000

ROCKY MOUNTAIN LAND & CATTLE LLC
C/O HOLDEN, KIDWELL, HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

Re: Application for Transfer of Permit Nos. A37-20344, 61-00356, 61-00357, 61-02242, 61-02243, and 61-07231

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application for transfer. You should be aware that the following are the criteria we consider when either approving or denying an application for transfer:

1. Will other water rights be injured by the transfer?

2. Will the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for January 4, 2001 at Glenns Ferry City Hall, Glenns Ferry, Idaho. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If we may be of assistance, please contact us.

Sincerely,

Gary Spackman

GS:st
Enclosure: Copy of Protests
Notice of Prehearing Conference

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 15, 2000

FLOYD P DEWITT
US BUREAU OF LAND MGMT
WATER RIGHTS SPEC
PO BOX 2B
SHOSHONE ID 83352

KING HILL IRRIG DIST
GARDNER BROWN MGR
PO BOX 428
KING HILL ID 83633

FRANKLIN &/OR ELIZABETH POWERS
3154 S CRABAPPLE LN
BOISE ID 83706

GEORGE L PRESLEY
RT 1 BOX 12
KING HILL ID 83633

Re: Application for Transfer of Permit Nos. A37-20344, 61-00356, 61-00357, 61-02242, 61-02243, and 61-07231 in the Name of Rocky Mountain Land and Cattle, LLC

Dear Protestant:

This office acknowledges receipt of your protest opposing the above-referenced application for transfer. The following are the criteria we consider when either approving or denying an application for transfer:

1. Will other water rights be injured by the transfer?

2. Will the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for January 4, 2001 at Glenns Ferry City Hall, Glenns Ferry, Idaho. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

Gary Spackman

Gary Spackman

GS:st

Encl: Copy of Application
Notice of Prehearing Conference

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 15, 2000

GLENNS FERRY CITY HALL
204 E 2ND
PO BOX 910
GLENNS FERRY ID 83623

Re: Conference Room Reservation

This letter is to confirm the conference room reservation made by the Department of Water Resources for Thursday, January 4, 2001, at 1:30 p.m.

If you have any questions please call me at 334-2190, Western Region of the Department of Water Resources.

Sincerely,

Sue Taylor
Senior Secretary

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS, TRANSFER NO. 5850

Notice is given that **ROCKY MOUNTAIN LAND & CATTLE, LLC**, c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., PO Box 50130, Idaho Falls ID 83405, have applied to the Department of Water Resources to change the Place of Use and clarify a Point of Diversion pursuant to I.C. § 42-222 for the following rights recorded as follows in Elmore County:

Decree 61-00356, priority 1/7/1901, 6.4 cfs for unspecified irrigation in S1 T5S R10E and S6 T5S R11E, from an unspecified point of diversion on King Hill Creek tributary to Snake River.

Decree 61-00357, priority 1/7/1901, unspecified volume for irrigation storage and irrigation from storage, 13.6 cfs for diversion to storage, from an unspecified point of diversion on King Hill Creek tributary to Snake River. Place of Use same as 61-00356.

License 61-02242, priority 7/28/1966, .94 cfs for irrigation of 47 acres in S6, diverted from ground water in SWNE S6 T5S R11E.

License 61-02243, priority 7/26/1966, 1.6 cfs for irrigation of 80 acres in S6 T5S R11E, same well as no. 61-02242.

License 61-07231, priority 10/4/1968, 1.2 cfs for irrigation of 60 acres in S6 T5S R11E, same well as no. 61-02242.

License 37-02006C, priority 1/25/1904, 1.92 cfs for unspecified irrigation in S7, diverted from Clover Creek tributary to the Snake River in NENW S10 T5S R11E.

License 37-02006D, priority 1/25/1904, 1.96 cfs for unspecified irrigation in S7 and 8, diverted from Clover Creek tributary to the Snake River in NWSW S8 T5S R11E.

The rights were recommended in the Snake River Basin Adjudication as listed above with the following clarified elements:

A61-00356, diverted in SWNE S34 T4S R10E.

A61-00357, 490 afa for irrigation storage and irrigation from storage diverted in SWNE S6 T5S R11E.

A61-02242, A61-02243 and A61-07231, diverted in NESWNE S6 T5S R11E.

When combined, the five rights listed above are limited to 507 acres irrigation within a 767 permissible place of use (ppu) in S1 and 12, T5S R10E and S5, 6, 7 and 8, T5S R11E.

37-02006D & C were redefined as A37-20344, owned by the applicant; for .88 cfs irrigation on 44 acres in S7 and 8, diverted in NWSW S8 T5S R11E and A37-20343 owned by Barber Caven Ranches.

PROPOSED CHANGE

Increase the ppu from 767 acres to 930 acres in S1 and 12, T5S R10E and S5, 6, 7 and 8, T5S R11E. Clarify the point of diversion on rights 61-00356 and 61-00357 to NWNWSW S26 T4S R10E. Applicant's portion of rights 37-02006C and D will be 61-02006F for .88 cfs to be used for 44 acres irrigation within the 930 acre proposed ppu. Remaining balance will be 61-02006G.

Affidavit of Publication

County of Elmore } ss.
STATE OF IDAHO }

RECEIVED
OCT 30 2000
WATER RESOURCES
WESTERN REGION

I, Coleen W. Swenson, do solemnly swear that I am the 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 18 day of OCT, 20 00, and the last publication having been made on the 25 day of OCT, 20 00; 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 the period of 78 consecutive weeks prior to the first publication of the attached notice.

Brenda M. Jacob Bus. Mgr.
for publisher

Subscribed and sworn to me this 25 day of OCT, 20 00

Christine M Lewis
Notary Public

Residing in Mountain Home, Elmore County, Idaho
My commission expires 9-25-06

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 18, 2000

IDAHO STATE OFFICE
BLM
1387 VINNELL WAY
BOISE ID 83709-1657

Re: Application for Transfer No.5850 in the Name of Rocky Mountain Land & Cattle

Dear Sir:

Enclosed is a copy of the above-referenced application for transfer. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application, your written protest along with the $25.00 protest fee must be received in this office by May 8, 2000.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

GS:lm

Encl.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 18, 2000

GARDNER BROWN
KING HILL IRRIGATION DISTRICT
PO BOX 428
KING HILL ID 83633

Re: Application for Transfer No. 5850 in the Name of Rocky Mountain Land & Cattle

Dear Sir or Madam:

Enclosed is a copy of the above-referenced application for transfer.

Please review the application and return any comments you might have within two weeks. If you desire to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by February 7, 2000.

If you have any questions or need information, feel free to contact this office.

Sincerely,

Gary Spackman

GS:lm

Encl: Copy of Application

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 18, 2000

SCOTT GRUNDER
STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Application for Transfer No. 5850 in the Name of Rocky Mountain Land & Cattle

Dear Sir:

Enclosed is a copy of the above referenced application for transfer which may be of interest to your agency. The proposed use of this application is from surface water. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by September 25, 2000.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:lm

Encl. Copy of Application

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 10, 2000

MOUNTAIN HOME NEWS
PO BOX 1330
MOUNTAIN HOME ID 83647

Dear Legal Dept.:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated. If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Please send the affidavits of publication and publication billing to this office before **November 6, 2000.**

Sincerely,

Sue Taylor
Senior Secretary

Enc.

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS, TRANSFER NO. 5850

Notice is given that **ROCKY MOUNTAIN LAND & CATTLE, LLC,** c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., PO Box 50130, Idaho Falls ID 83405, have applied to the Department of Water Resources to change the Place of Use and clarify a Point of Diversion pursuant to I.C. § 42-222 for the following rights recorded as follows in Elmore County:

Decree 61-00356, priority 1/7/1901, 6.4 cfs for unspecified irrigation in S1 T5S R10E and S6 T5S R11E, from an unspecified point of diversion on King Hill Creek tributary to Snake River.

Decree 61-00357, priority 1/7/1901, unspecified volume for irrigation storage and irrigation from storage, 13.6 cfs for diversion to storage, from an unspecified point of diversion on King Hill Creek tributary to Snake River. Place of Use same as 61-00356.

License 61-02242, priority 7/28/1966, .94 cfs for irrigation of 47 acres in S6, diverted from ground water in SWNE S6 T5S R11E.

License 61-02243, priority 7/26/1966, 1.6 cfs for irrigation of 80 acres in S6 T5S R11E, same well as no. 61-02242.

License 61-07231, priority 10/4/1968, 1.2 cfs for irrigation of 60 acres in S6 T5S R11E, same well as no. 61-02242.

License 37-02006C, priority 1/25/1904, 1.92 cfs for unspecified irrigation in S7, diverted from Clover Creek tributary to the Snake River in NENW S10 T5S R11E.

License 37-02006D, priority 1/25/1904, 1.96 cfs for unspecified irrigation in S7 and 8, diverted from Clover Creek tributary to the Snake River in NWSW S8 T5S R11E.

The rights were recommended in the Snake River Basin Adjudication as listed above with the following clarified elements:

A61-00356, diverted in SWNE S34 T4S R10E.
A61-00357, 490 afa for irrigation storage and irrigation from storage diverted in SWNE S6 T5S R11E.
A61-02242, A61-02243 and A61-07231, diverted in NESWNE S6 T5S R11E.

When combined, the five rights listed above are limited to 507 acres irrigation within a 767 permissible place of use (ppu) in S1 and 12, T5S R10E and S5, 6, 7 and 8, T5S R11E.

37-02006D & C were redefined as A37-20344, owned by the applicant, for .88 cfs irrigation on 44 acres in S7 and 8, diverted in NWSW S8 T5S R11E and A37-20343 owned by Barber Caven Ranches.

PROPOSED CHANGE

Increase the ppu from 767 acres to 930 acres in S1 and 12, T5S R10E and S5, 6, 7 and 8, T5S R11E. Clarify the point of diversion on rights 61-00356 and 61-00357 to NWNWSW S26 T4S R10E. Applicant's portion of rights 37-02006C and D will be 61-02006F for .88 cfs to be used for 44 acres irrigation within the 930 acre proposed ppu.. Remaining balance will be 61-02006G.

Any protest against the 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 for each application on or before November 6, 2000. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Mountain Home News on October 18 and 25, 2000.

MEMORANDUM

RECEIVED
SEP 1 1 2000
WATER RESOURCES
WESTERN REGION

TO: Lori Graves

FROM: Douglas Jones

DATE: 9/7/00

RE: A37-02006E Work Completed

Attached to this memo is the claim split for Rocky Mountain Land & Cattle, a map with the layout of the claim and split, a cover letter to Kent Foster pertaining to my findings and a color map with the extent of use of 37-02006E depicted.

Foster may choose to file the transfer based on the claim, or whatever. Please incorporate a copy of the cover letter, the color map, and a copy of this memo with the transfer processing recommendations you forward to the State Office.

I strongly recommend that the portion of 37-02006E transferred be limited to 0.88 cfs for use on 44 acres. These are the values mentioned in the letter to Foster and as I intend to draft as the preliminary recommendation to be filed when the SRBA progresses to B37.

If additional information or documentation is needed please contact me.

Law Offices

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
THEL W. CASPER
SHAN B. PERRY
AMELIA A. CANEGALY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED
MAR 24 2000
WATER RESOURCES
WESTERN REGION

March 22, 2000

RECEIVED
MAR 24 2000
Department of Water Resources

Attn: Lori Graves
Idaho Department of Water Resources
Western Region Office
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Re: Application for Transfer of Rocky Mountain Land & Cattle, LLC

Dear Lori:

Enclosed are the maps and additional information which we just received from Jill Moore at the Gooding/Camas County FSA office.

I have been waiting to revise the application until I could get an answer from King Hill Irrigation District. I have now been advised that the land list I used from the irrigation district's SRBA claim is no longer correct and that the numbers I used are therefore wrong. I am waiting for the corrected version as well as the consent of King Hill to change the SRBA claim before I amend the application.

Thanks for your continued assistance and patience.

Very truly yours,

Kent W. Foster

Enclosures
G:\WPDATA\KWF\2368\ROCKY\IDWR0321.LTR·kmc

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
THEL W. CASPER
SHAN B. PERRY
AMELIA A. CANEGALY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

January 31, 2000

RECEIVED
FEB 02 2000
Department of Water Resource
Southern Regio

RECEIVED
FEB 03 2000
WATER RESOURCES
WESTERN REGION

IDAHO DEPARTMENT OF
WATER RESOURCES
1341 Fillmore, Ste. 200
Twin Falls, ID 83301-3380

Gentlemen:

We are enclosing for filing an application for transfer of water rights on behalf of Rocky Mountain Land and Cattle, LLC. We have also enclosed our check in the amount of $100 for the filing fee and will look forward to hearing from you as we move forward with this application.

Two of the water rights for this land are in Basin 37 which we understand is still some way off so far as SRBA processing. Please let us know if there is any way we can be of assistance.

Very truly yours,

Kent W. Foster

Enclosures
G:\WPDATA\KWF\2368\ROCKY\IDWR0128.LTR:kmc

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: W026111

Date: 2/ 3/2000
Time: 11:26:31

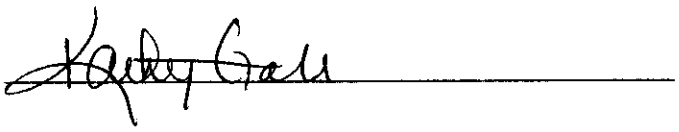
Received From: HOLDEN KIDWELL HANN

Type of Payment		Program Acct	Amount
TRANSFER - ROCKY MT LAND & CATTLE	62105	229 21 1155	100.00

CHECK 15406

Total $ 100.00

Region: WESTERN

Signature: 

MEMORANDUM

DATE: 10/6/00

FROM: Lori Graves ☺

TO: File

RE: Rocky Mountain Land & Cattle (RML&C) Transfer No. 5850

Attachments

A. Acres Irrigated After Transfer
B. 1987 FSA Photos
C. System Diagram
D. Consultant's 9/12/00 Letter
E. Ownership Documentation

Brief

Applicants wishes to combine their surface water and ground water rights into a common system. Sources include Clover Creek, King Hill Creek and ground water. King Hill Irrigation District water is also used. No new points of diversion are proposed, however the points of diversion for the King Hill Creek water rights are being "corrected" by this transfer to match BLM's GPS findings. This corrected P/D is not listed in applicant's ownership documentation and is assumed to be owned by BLM. BLM has been flagged for a comment letter.

Review

The basin 61 rights have been recently recommended for decree in the SRBA. The Clover Creek right is located in basin 37. Doug Jones did a preliminary investigation and SRBA recommendation of this right to allow this transfer to be processed. Doug's findings are explained in his 9/7/00 memo to me and his 9/7/00 letter to Kent Foster, applicant's consultant and attorney (see reviewer's notes attached).

The Clover Creek water right began as no. 37-02006. After two previous transfers, the right eventually became 37-02006C and 37-02006D. The C and D rights were then re-combined in the SRBA and claimed as A37-02006E. Based on ownership documentation, Doug Jones re-numbered applicant's portion of A37-02006E as A37-20344 in the SRBA, which includes portions of both the original C and D rights. The remainder of the right has been re-numbered A37-20343 and will be disallowed in the SRBA due to non-use.

After consulting Pam Skaggs, both the C and D portions need to be described in the transfer ad since A37-20344 has yet to be decreed in the SRBA. Applicant's portion will be known as 37-02006F and the remainder (disallowed portion) will be 37-02006G. 37-02006E will be skipped to eliminate possible confusion in the future due to the SRBA re-numbering of A37-02006E.

Applicant included 62 acres and 1.24 cfs on the transfer for their portion of 37-02006 (A37-20344) as being historically and currently irrigated with Clover Creek water. Doug Jones found and recommended 44 acres and .88 cfs as being historically and currently irrigated with the Clover Creek water. For this transfer, the additional 18 acres will be recognized in the PPU, however, the right will be limited to .88 cfs and 44 acres per Doug's findings.

Applicant listed right 61-00357 as **13.6 cfs for irrigation**. The right is actually for 490 afa irrigation storage and **13.6 cfs diversion to storage**. In a 10/06/00 telecon with Kent Foster, applicant's consultant, he stated that the transfer form was limiting and did not allow enough room for an expanded description of the right. Kent stated that the applicant did not wish to change the decreed water uses, seasons or amounts listed on right 61-00357, just correct the p/d as mentioned above and expand the ppu.

King Hill Irrigation District water (~585 shares) is also injected into a pond with the other surface water sources and re-lifted into the common mainline system for the 930.04 acres.

The farming operation's total acreage consists of 1,165.26 acres, of which King Hill Irrigation District water is used exclusively on 234.86 acres via separate headgate and mainline system. This was verified by Gib Brown and Casey Duerig, manager and ditch rider for King Hill Irrigation District.

No other rights are used.

Previous Complaint

Gib Brown called in June to alert us of an illegal diversion on Clover Creek. It seems that he had received several complaints from local farmers in regards to a new pump sstation recently installed by RML&C on Clover Creek, which diverted much more water than had been historically used. Doug Jones confirmed that the pump station consists of two 125 hp pumps feeding a 12" mainline. Because RML&C is limited to .88 cfs of Clover Creek water, based on Doug Jones's SRBA findings, the pump station should be modified to insure that over appropriation is less likely.

Recommendations

61-00356 & 61-00357: When combined, these rights are limited to irrigation of 320 acres within the 930.04 place of use described per transfer in a single irrigation season.

Disregard applicant's water use description of 61-00357 on front page of transfer. Transfer water uses, seasons of use and amounts as listed on the right.

The PPU contains gov. lots in N ½ N ½ and the W ½ W ½ S6, NWNW and SWNE S7, NWSW S8, T5S R11E and the N ½ NE S1 T5S R10E (see gov. lot maps in reviewer's notes). Applicant did not list gov. lots on transfer application, however they need to be included in the transfer processing.

61-02242: When combined, this right is limited to irrigation of 47 acres within the 930.04 place of use described per transfer in a single irrigation season.

61-02243: When combined, this right is limited to irrigation of 80 acres within the 930.04 place of use described per transfer in a single irrigation season.

61-02242 & 61-02243: When used together, limited to a total combined diversion rate of 2.54 cfs.

61-07231: When combined, this right is limited to irrigation of 60 acres within the 930.04 place of use described per transfer in a single irrigation season.

37-02006F (A37-20344): When combined, this right be limited to irrigation of 44 acres within the 930.04 place of use described per transfer in a single irrigation season.

Modify (down-size) Clover Creek pump station and/or require annual measurement reporting to insure applicants do not exceed their historical diversion rate.

Require measuring devices at all diversion points.

1 St Version Replaced 2/9/01

ansfer No. _____

Form 222
1-87

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WESTERN REGION

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Department of Water Resources
Southern Region

I IRCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant Rocky Mountain Land & Cattle, LLC Phone (208) 523-0620
Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, Idaho 83405

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion 61-00356 and 61-00357 ☐ Add diversion point(s) ☒ Change place of use- all rights
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes More efficient irrigation by means of additional pivot sprinkler systems.

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
37-02006E	01/25/1904	3.88 cfs	Irrigation	04-15 to 10-15
61-00356	01/07/1901	6.40 cfs	Irrigation	04-15 to 10-15
61-00357	01/07/1901	13.60 cfs	Irrigation	04-15 to 10-15
61-02242	07/28/1966	.94 cfs	Irrigation	04-15 to 10-15
61-02243	07/26/1966	1.60 cfs	Irrigation	04-15 to 10-15
61-07231	10/04/1968	1.20 cfs	Irrigation	04-15 to 10-15
*37-04112	03/26/1902	11.29 cfs	Irrigation	04-15 to 10-15

2. Total amount of water being transferred 38.91 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Clover Creek for 37-02006E, King Hill Creek for 61-00356 and 61-00357, Groundwater for 61-02242, 61-02243 and 61-07231 and Malad River for 37-04112 tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	8	5S	11E	Elmore	37-02006E
	NW	NW	SW	26	4S	10E	Elmore	61-00356 and 61-00357
	NE	SW	NE	6	5S	11E	Elmore	61-02242, 61-02243 and 61-07231
		NW	NW	35	6S	13E	Gooding	37-04112

5. Lands irrigated or place of use: (Permissible place of use for all water rights)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	10E	1	40.1	40	30	40.2					0.2		39	40	31	1.4	25	14	300.9
		2																12	12.00
		12	4	19			24	38	35										120.0
5S	11E	5									28	31	40	14					113.0

Transfer No. _____

Form 222
1-87

RECEIVED
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WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED
FEB 0 2 2000
Department of Water Resource
Southern Regio

Name of Applicant Rocky Mountain Land & Cattle, LLC Phone (208) 523-0620
Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, Idaho 83405

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1. ☒ Change point of diversion 61-00356 and 61-00357 ☐ Add diversion point(s) ☒ Change place of use- all rights
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes More efficient irrigation by means of additional pivot sprinkler systems.

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
37-02006E	01/25/1904	3.88 cfs	Irrigation	04-15 to 10-15
61-00356	01/07/1901	6.40 cfs	Irrigation	04-15 to 10-15
61-00357	01/07/1901	13.60 cfs	Irrigation	04-15 to 10-15
61-02242	07/28/1966	.94 cfs	Irrigation	04-15 to 10-15
61-02243	07/26/1966	1.60 cfs	Irrigation	04-15 to 10-15
61-07231	10/04/1968	1.20 cfs	Irrigation	04-15 to 10-15
*37-04112	03/26/1902	11.29 cfs	Irrigation	04-15 to 10-15

2. Total amount of water being transferred 38.91 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Clover Creek for 37-02006E, King Hill Creek for 61-00356 and 61-00357, Groundwater for 61-02242, 61-02243 and 61-07231 and Malad River for 37-04112 tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	8	5S	11E	Elmore	37-02006E
	NW	NW	SW	26	4S	10E	Elmore	61-00356 and 61-00357
	NE	SW	NE	6	5S	11E	Elmore	61-02242, 61-02243 and 61-07231
		NW	NW	35	6S	13E	Gooding	37-04112

5. Lands irrigated or place of use: (Permissible place of use for all water rights)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	10E	1	40.1	40	30	40.2					0.2		39	40	31	1.4	25	14	300.9
		2																12	12.00
		12	4	19			24	38	35										120.0
5S	11E	5									28	31	40	14					113.0

Transfer No. _____

		6		34	12.5	13	41	31.3	30.1	40	40	31	25	35	33	32	30	34.5	462.4
		7	36	20		4	18	17											95.00
		8							1										1.000

Total Acres 1104.3

*37-04112 is a right claimed by King Hill Irrigation District from the Malad River for 370 cfs for a total of 11,275.7 acres which includes 344.2 acres of applicant's land. This proposal would rearrange but not increase or decrease the number of applicant's acres irrigated with this right.

6. General Information:

a. Description of diversion system Headgates, ditches, reservoir, pumps and mainline for surface water rights; well and pump for groundwater rights

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes No 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 effect on the land now irrigated if the place of use is changed pursuant to this transfer:
Some of the land now irrigated will be dry and some of the presently dry land will be irrigated because of the configuration of the pivots. There will be no change in total acres irrigated.

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 _____, 2000.

_____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2
(ATTACH ONE COPY FOR EACH RIGHT)
SEE ATTACHMENTS FOR IDWR RECOMMENDATION OR SRBA CLAIM

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 of 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 _____

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	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

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

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

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	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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

 Transfer No. _____

3. Lands irrigated or place of use:

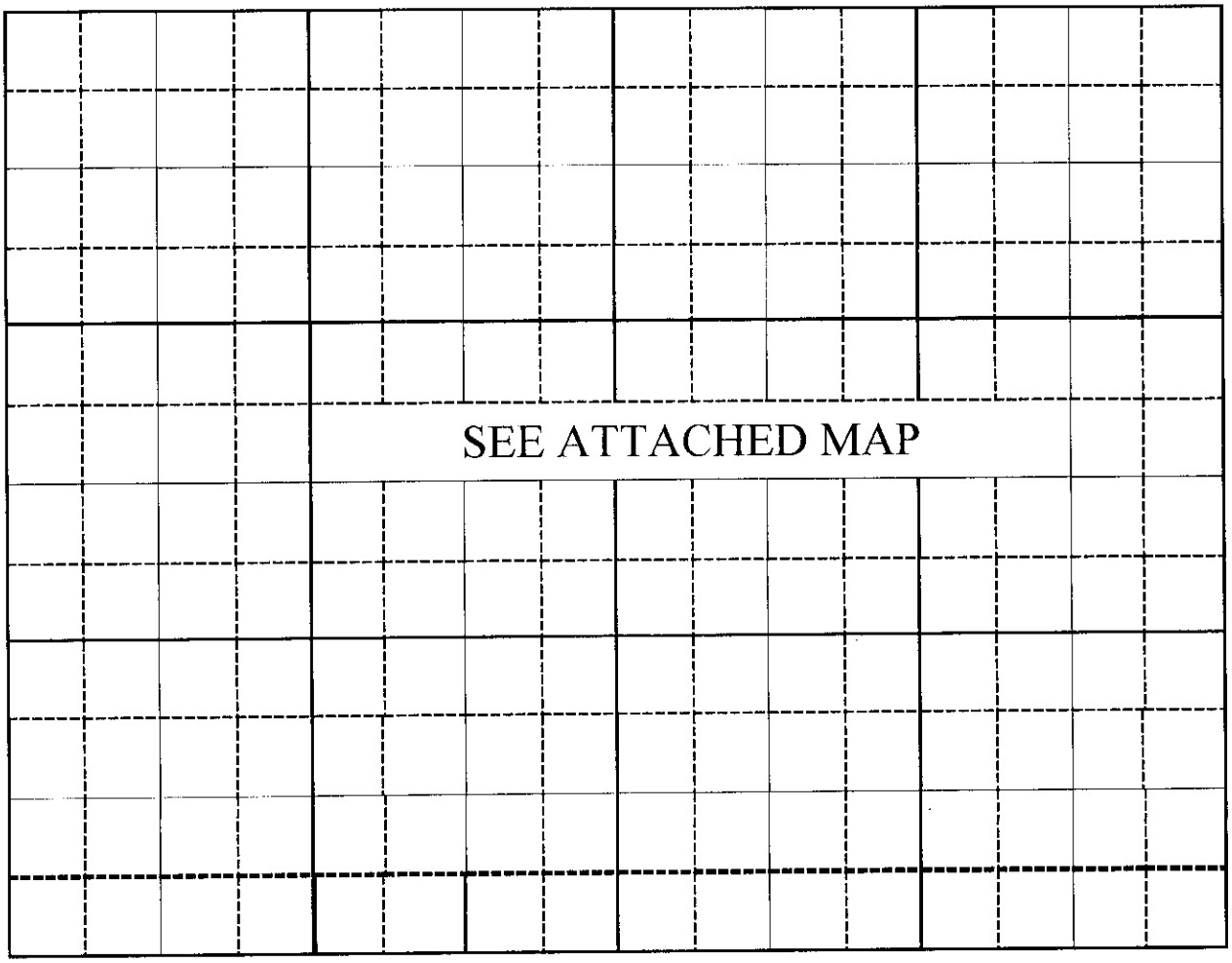
Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indication 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.



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

 Transfer No. _____

B. CHANGES IN NATURE OF USE

1. New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

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

No change

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

No effects

I hereby asset 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.

_____, Manager
(Signature of Applicant)

Subscribed and sworn to before me this 28 day of January, 2000.

_____
Notary Public

KENT W. FOSTER NOTARY PUBLIC STATE OF IDAHO

My Commission Expires 11/20/2004

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by KH Date 2/3/00 Protest filed by _____

Prelim. check by _____ Fee 100.00

Receipted by KH Date 2/3/00 WO 26111

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	BARBER/CAMEN RANCHES 6874 FAIRVIEW ROAD BOISE ID 83704 (208) 322-5600	01/25/1904	IRRIGATION	04-15	10-15	3.880 CFS	
				TOTAL DIVERSION:		3.880 CFS	
				CONSUMPTIVE USE:			960.00 AFA

Water Source: CLOVER CREEK Tributary to: SNAKE RIVER Stage: LICENSE

Point(s) of Diversion: T05S R11E S08 NWSW ELMORE County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
05S	11E	7			04-40	40			02-40	03-40					05-40	04-40			240.0
05S	11E	8							40			01-40							80.0
																		TOTAL ACRES	320.0

POU County: ELMORE

Non-Irrigation Uses: IN-STREAM STOCK WATERING

Other Rights: NONE

Dates: Exam Made Date: Verified Date: 06/03/1985 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 10/26/89 SCHULD 03/30/95 POST-STD

RIGHTS FROM: SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 61-00356

NAME & ADDRESS: ROCKY MOUNTAIN LAND AND CATTLE LLC
AN IDAHO LIMITED LIABILITY CO
PO BOX 73
HAGERMAN ID 83332

SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 6.4 CFS

PRIORITY DATE: 01/07/1901

POINT OF DIVERSION: T04S R10E S34 SWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03-15 11-15	6.4 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T05S R10E S01	NENE 40.1	NWNE 40	SWNE 30	SENE 40.2
	NESE 31	NWSE 1.4	SESE 8.4	
S12	NENE 6			
R11E S05	NESW 28	NWSW 31	SWSW 40	SESW 14
	NWSE 3.7			
S06	NWNE 34	SWNE 12.5	SENE 13	NENW 41
	NWNW 31.3	SWNW 30.1	SENW 40	NESW 40
	NWSW 31	SWSW 20	SESW 9.1	NESE 33
	NWSE 32	SWSE 20	SESE 30.5	
S07	NENE 1.7	NWNW 12		
S08	NENW 3.2	NWNW 19		

767.2 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 320 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 767.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00357, 61-02242, 61-02243, 61-07231.

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

RIGHTS FROM: SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 61-00356 (CONT)

OTHER PROVISIONS: (CONT)

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

USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

RIGHTS FROM: SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 61-00357

NAME & ADDRESS: ROCKY MOUNTAIN LAND AND CATTLE LLC
AN IDAHO LIMITED LIABILITY CO
PO BOX 73
HAGERMAN ID 83332

SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 13.6 CFS
490.0 AFY

PRIORITY DATE: 01/07/1901

POINT OF DIVERSION: T05S R11E S06 SWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	01-01 12-31	490.0 AFY
IRRIGATION FROM STORAGE	03-15 11-15	490.0 AFY
DIVERSION TO STORAGE	10-15 07-01	13.6 CFS

PLACE OF USE: IRRIGATION FROM STORAGE Within ELMORE County

T05S R10E S01	NENE 40.1	NWNE 40	SWNE 30	SENE 40.2
	NESE 31	NWSE 1.4	SESE 8.4	
S12	NENE 6			
R11E S05	NESW 28	NWSW 31	SWSW 40	SESW 14
	NWSE 3.7			
S06	NWNE 34	SWNE 12.5	SENE 13	NENW 41
	NWNW 31.3	SWNW 30.1	SENW 40	NESW 40
	NWSW 31	SWSW 20	SESW 9.1	NESE 33
	NWSE 32	SWSE 20	SESE 30.5	
S07	NENE 1.7	NWNW 12		
S08	NENW 3.2	NWNW 19		

767.2 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 320 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 767.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00356, 61-02242, 61-02243, 61-07231.

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

RIGHTS FROM: SOURCE: KING HILL CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 61-00357 (CONT)

OTHER PROVISIONS: (CONT)

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

USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02242

NAME & ADDRESS:
ROCKY MOUNTAIN LAND AND CATTLE LLC
AN IDAHO LIMITED LIABILITY CO
PO BOX 73
HAGERMAN ID 83332

SOURCE: GROUNDWATER

QUANTITY:
0.94 CFS
235.0 AFY

USE OF THIS RIGHT WITH RIGHT NO. 61-02243 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.54 CFS.

PRIORITY DATE: 07/28/1966

POINT OF DIVERSION: T05S R11E S06 NESWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION NA	04-01 10-31	0.94 CFS 235.0 AFY

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 APRIL 1 AND AFTER OCTOBER 31 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

T05S R10E S01	NENE 25.1	NWNE 29	SWNE 30	SENE 40.2	
	NESE 31	NWSE 1.4	SESE 8.4		
S12	NENE 6				
R11E S05	NESW 28	NWSW 31	SWSW 40	SESW 14	
	NWSE 3.7				
S06	NWNE 14	SWNE 12.5	SENE 13	NENW 11	
	NWNW 9.3	SWNW 30.1	SENW 40	NESW 40	
	NWSW 31	SWSW 20	SESW 9.1	NESE 33	
	NWSE 32	SWSE 20	SESE 30.5		
S07	NENE 1.7	NWNW 12			
S08	NENW 3.2	NWNW 19			

669.2 ACRES TOTAL

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02242 (CONT)

PLACE OF USE: (CONT)

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 47 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 669.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00357, 61-00356, 61-02243, 61-07231.

OTHER PROVISIONS 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 - LICENSE
USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02243

NAME & ADDRESS:
ROCKY MOUNTAIN LAND AND CATTLE LLC
AN IDAHO LIMITED LIABILITY CO
PO BOX 73
HAGERMAN ID 83332

SOURCE: GROUNDWATER

QUANTITY:
1.6 CFS
400.0 AFY

USE OF THIS RIGHT WITH RIGHT NO. 61-02242 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.54 CFS.

PRIORITY DATE: 07/26/1966

POINT OF DIVERSION: T05S R11E S06 NESWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04-01 10-31	1.6 CFS 400.0 AFY

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 APRIL 1 AND AFTER OCTOBER 31 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

T05S R10E S01	NENE 25.1	NWNE 29	SWNE 30	SENE 40.2
	NESE 31	NWSE 1.4	SESE 8.4	
S12	NENE 6			
R11E S05	NESW 28	NWSW 31	SWSW 40	SESW 14
	NWSE 3.7			
S06	NWNE 14	SWNE 12.5	SENE 13	NENW 11
	NWNW 9.3	SWNW 30.1	SENW 40	NESW 40
	NWSW 31	SWSW 20	SESW 9.1	NESE 33
	NWSE 32	SWSE 20	SESE 30.5	
S07	NENE 1.7	NWNW 12		
S08	NENW 3.2	NWNW 19		

669.2 ACRES TOTAL

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02243 (CONT)

PLACE OF USE: (CONT)

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 669.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00357, 61-00356, 61-02242, 61-07231.

OTHER PROVISIONS 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 - LICENSE

USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-07231

NAME & ADDRESS:
ROCKY MOUNTAIN LAND AND CATTLE LLC
AN IDAHO LIMITED LIABILITY CO
PO BOX 73
HAGERMAN ID 83332

SOURCE: GROUNDWATER

QUANTITY:
1.2 CFS
300.0 AFY

PRIORITY DATE: 10/04/1968

POINT OF DIVERSION: T05S R11E S06 NESWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04-01 10-31	1.2 CFS 300.0 AFY

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 APRIL 1 AND AFTER OCTOBER 31 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

T05S R10E S01	NENE 25.1	NWNE 29	SWNE 30	SENE 40.2
	NESE 31	NWSE 1.4	SESE 8.4	
S12	NENE 6			
R11E S05	NESW 28	NWSW 31	SWSW 40	SESW 14
	NWSE 3.7			
S06	NWNE 14	SWNE 12.5	SENE 13	NENW 11
	NWNW 9.3	SWNW 30.1	SENW 40	NESW 40
	NWSW 31	SWSW 20	SESW 9.1	NESE 33
	NWSE 32	SWSE 20	SESE 30.5	
S07	NENE 1.7	NWNW 12		
S08	NENW 3.2	NWNW 19		

669.2 ACRES TOTAL

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-07231 (CONT)

PLACE OF USE: (CONT)

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 669.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:61-00357, 61-00356, 61-02242, 61-02243.

OTHER PROVISIONS 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 - LICENSE
USE OF THIS RIGHT IS COMBINED WITH WATER FROM KING HILL IRRIGATION DISTRICT.

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IDWR SOUTHERN REGION
12/27/1999 17:00 2087363037

AJ5809NP
No. A37-04112

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 12/27/99
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	KING HILL IRRIGATION DISTRICT PO BOX 428 KING HILL ID 83633	03/26/1902	IRRIGATION	03-01	10-31	370.000 CFS	
			STOCKWATER	01-01	12-31	30.000 CFS	
			DOMESTIC	01-01	12-31	30.000 CFS	
				TOTAL DIVERSION:		370.000 CFS	

Water Source: MALAD RIVER Tributary to: SNAKE RIVER Stage: STATUTORY CLAIM

Point(s) of Diversion: T06S R13E S35 NWNW GOODING County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
T	R	S	NENE Lt Ac	NWNE Lt Ac	SWNE Lt Ac	SENE Lt Ac	NENW Lt Ac	NWNW Lt Ac	SWNW Lt Ac	SENW Lt Ac	NESW Lt Ac	NWSW Lt Ac	SWSW Lt Ac	SESW Lt Ac	NESE Lt Ac	NWSE Lt Ac	SWSE Lt Ac	SESE Lt Ac	SUM
05S	08E	24																40	40.0
05S	08E	25	40		40	40			32	40	28	25	38	39			36	03	364.3
05S	08E	26				03								05	04	04	30	36	84.9
05S	08E	33													39	03			42.0
05S	08E	34			15	05					30			34	36	39	19	36	216.6
05S	08E	35	27	23	40	34	24	22	22	37	40	40	39	40	18	25	36	31	503.4
05S	08E	36	35	37	19	39	39	38	34	31	39	38	37	37	19	36	39	16	538.8
05S	09E	19													01			05	6.7
05S	09E	20										03	27						30.9
05S	09E	22																17	17.5
05S	09E	25											15	24			37		77.4
05S	09E	26						09	06										16.5
05S	09E	27	35	40	10					09	37	21	06	07	18	19			205.3
05S	09E	29					03	38	36	25	24	40		35			04		208.1
05S	09E	30	38			40									13				91.5
05S	09E	31	24			16		01-19	02-13										74.3
05S	09E	32		10	13		40	34	31	32	03-21	04-23							205.9
05S	09E	36	10	21			06												38.2
05S	10E	1		02-04	32	17	03-37	04-20	36	15	.2	31	39	40	35	19	25		355.4
05S	10E	2	10			29									29			12	81.5
05S	10E	11	29			34									25		03	26	117.9
05S	10E	12	28			39	20	38	35	21		16							200.9
05S	10E	13	37	34	38	37				31	35	39	40	40	33	32	35	33	468.8
05S	10E	14													38			39	77.8
05S	10E	17										17	23						41.4
05S	10E	18												15				10	25.9
05S	10E	19	08		08	24	01			40	41			26	25	23	20	19	238.2
05S	10E	20						32	07										40.1
05S	10E	23	26			30								17	09		36	30	148.9
05S	10E	24	40	37	25	36	37	40	41	25	29	25	40	38	25	18	35	36	532.1
05S	10E	25	10	36	07		38	38	22	19									172.9
05S	10E	26	37	29	.6	13	06	.8											88.1
05S	10E	27					16	09	12	15	13	17				27			111.1

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
05S	10E	28	32		23	29		01							39	29	18	25	199.1
05S	10E	29		07	01	21			10	10		11			24	09	21	26	144.3
05S	10E	30	20	36	26	33	34			11				13	35		13		223.3
05S	10E	31	19	14	17	37	25								05	12			131.1
05S	10E	32		07				02	06	01									17.7
05S	10E	33	25	35						19									79.9
05S	10E	34						10											10.5
05S	10E	36			07	18	03				01				29	20		13	92.7
05S	11E	5									.8	12	40	30					84.5
05S	11E	6											30	01				31	63.2
05S	11E	7	07			27				33							36		104.3
05S	11E	8					05	20											26.1
05S	11E	17						12	20										33.5
05S	11E	18	36	27	31	29	28			37	38			36					264.2
05S	11E	19	31		31	31	35			35	06	16	27	37	29	20	05		306.7
05S	11E	29												09			08		17.9
05S	11E	30	01	34	26	28	20								38			31	181.0
05S	11E	31	15	03	38	37	10			38	38			38	38	38	38	37	374.0
05S	11E	32		15	31				04				14	15	16	35	15	24	172.2
06S	08E	2					40	40											80.0
06S	08E	3		39			10												49.9
06S	10E	1				08													8.0
06S	11E	5			26	04			37	32	13	38	35			07			196.3
06S	11E	6			40	40				40	15				30	30		08	205.4
06S	11E	8													06			09	16.7
06S	11E	9										06-10	07-29						40.6
06S	11E	13	36	40		08	36	40	32	20									215.3
06S	11E	14	21	16	40	39				38	07				04	20			188.3
06S	12E	7												40			20		60.0
06S	12E	8															20	23	44.4
06S	12E	9											39						39.5
06S	12E	11																09	9.9
06S	12E	12											21						21.3
06S	12E	13						02											2.0
06S	12E	14		01															1.0
06S	12E	16	20	29	09	05	33	21											119.1
06S	12E	17	03																3.5
06S	12E	18					37	24											62.3
06S	13E	18					31								14				45.8
06S	13E	28						02											2.7
															TOTAL ACRES				11275.7

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Lots Without 1/4 1/4 Description: IRRIGATION

	SUM
05S 09E 32 02-.3	0.3

PAGE 03/04
IDWR SOUTHERN REGION
12/27/1999 17:00 2087363037

Lots Without 1/4 1/4 Descriptions: IRRIGATION			SUM
05S 10E 12	03-17 04-11 06-31 07-28		89.5
05S 10E 13	01-08 02-17		25.4
05S 10E 14	01-02 02-11 08-09		23.5
05S 10E 19	01-38 02-38 03-15 04-15		106.5
05S 10E 21	05-39		39.5
05S 10E 22	08-13 09-08		21.0
05S 10E 28	01-30 02-21 03-19 05-19	06-13 07-05 08-03	112.5
05S 10E 30	01-12		12.8
05S 10E 31	07-22		22.4
05S 10E 33	01-10		10.0
05S 11E 6	03-01 04-02		4.3
05S 11E 7	06-36 07-07 09-22		66.8
05S 11E 8	02-02		2.9
05S 11E 17	02-10 03-18 06-10 07-04		43.6
05S 11E 18	01-29 02-27 03-30 04-32		120.2
05S 11E 19	01-26 02-28 03-15 04-29		98.8
05S 11E 31	01-03 02-36 03-36 04-35		111.0
05S 11E 32	03-01		1.8
05S 11E 33	02-02 05-24 06-13		39.9
06S 08E 1	03-43 04-42		85.4
06S 10E 1	01-30 02-30		60.0
06S 11E 4	03-26		26.5
06S 11E 5	01-25 02-19 03-18 04-20		83.8
06S 11E 6	01-41 02-42 03-42 04-39	05-27 06-.2	193.8
06S 11E 11	04-02 05-08		10.5
06S 11E 12	06-11 07-31 08-25		68.2
06S 11E 16	02-26		26.5
06S 12E 7	07-20 08-04 09-38 10-10		73.1
06S 12E 8	05-02 06-06 07-29		39.1
06S 12E 9	03-28 08-15		44.0
06S 12E 12	08-17 09-12		29.6
06S 13E 7	03-07 04-22 05-35		64.5
06S 13E 17	04-11 05-05		17.0
06S 13E 18	01-04 05-18 06-09		32.5
06S 13E 20	06-11 07-20		31.8
06S 13E 21	04-07		7.5
06S 13E 28	06-13 07-14		27.7

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

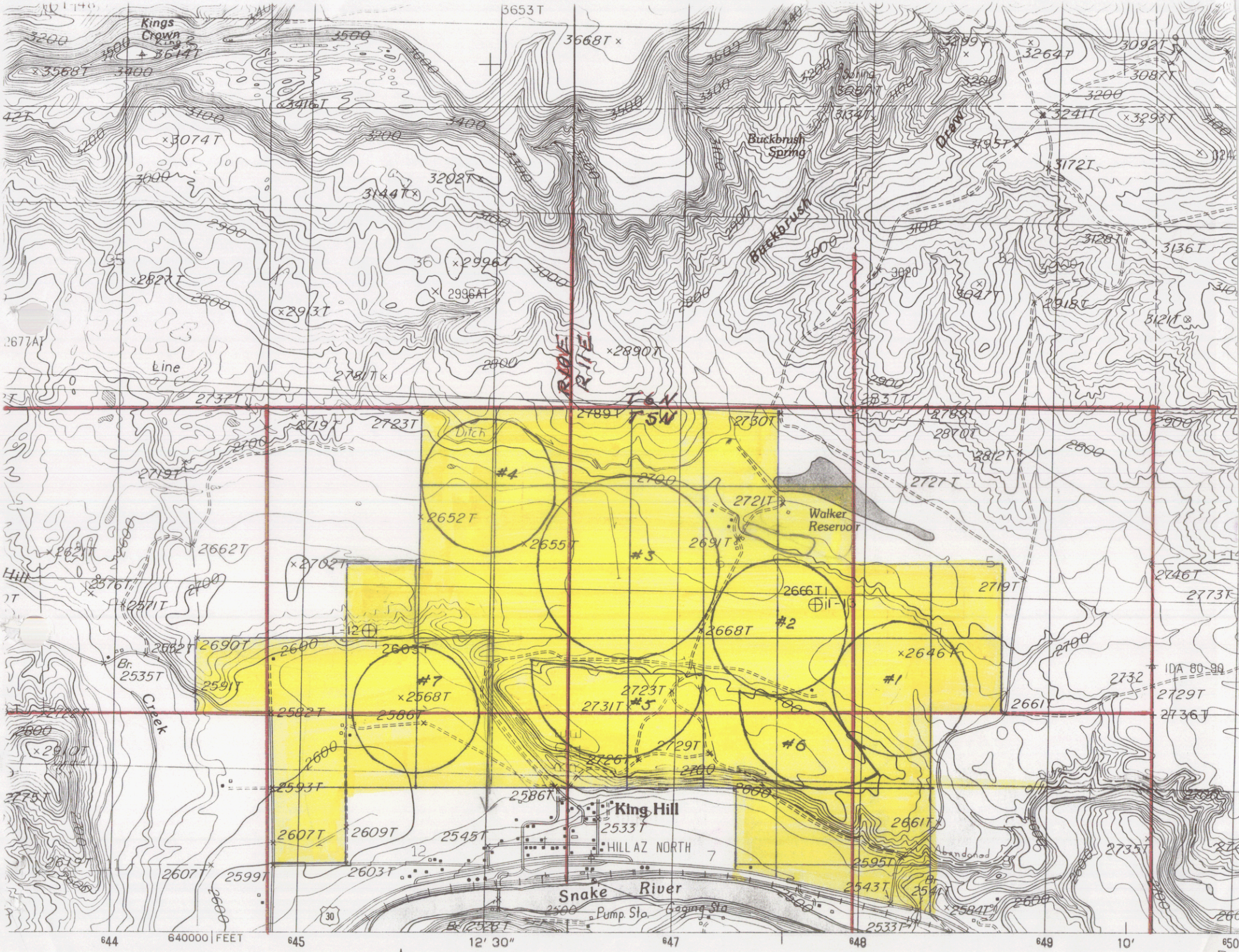
POU County: GOODING

Remarks: GEW WATER IS DELIVERED THROUGH THE IRRIGATION SYSTEM TO FARMS AND P/U T6S, R13E, S20, LOT 7 CHANGED TO LOT 9.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

PAGE 04/04
IDWR SOUTHERN REGION
2087363037
12/27/1999 17:00


Kings Crown
Buckbrush Spring
Buckbrush
Draw
Walker Reservoir
Ditch
#1
#2
#3
#4
#5
#6
#7
T6N
T5W
R1E
R2E
King Hill
HILL AZ NORTH
Snake River
Pump Sta.
Gaging Sta.
Abandoned
Br.
Creek
Hill
Line
IDA 80-90
640000 FEET
12' 30"
10'

RE: 61-0366 & 61-0368

Send copies of approved transfer to:

(1) Applicant - Joe T. Shelly
(2) Applicants' attorney - Wm Ringert (address in file)
(3) Idaho Land & Appraisal
(4) Bureau of Land Manage
attn: Mr. Don Runberg
P.O. Box 2-B
Shoshone, Id 83352

Conditions of Approval

(1) Measuring device requirement

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
STATE OFFICE

Cecil D. Andrus
Governor

R. Keith Higginson
Director

614 State Street
Statehouse – Annex 2
Boise, Idaho 83720
(208) 384-2215

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

February 28, 1974

Re: Transfer Nos. 61-0366 & 61-0368

Joe T. Shelby
P. O. Box 367
King Hill, Idaho 83633

Dear Mr. Shelby:

Enclosed are copies of your approved Application for Transfer of Water Right Nos. 61-0366 and 61-0368. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your poin of diversion has been placed upon your transfers. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

MICROFILMED

BOBBY D. FLEENOR
Assistant Director

BDF/bjg

Enclosures

RECEIVED
FEB 8 1974
Department of Water Administration

P. O. Box 401
King Hill, Idaho 83633
February 6, 1974

TDF

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

Mr. Dale Shelby and I have reached agreement on their requested transfer of water rights on King Hill Creek. The points of agreement are as follows and I request that they be made a matter of record with your agency.

1. Shelbys or their successors hereby agree to partipate financially on a 50-50 basis in the construction of a diversion at point where I can obtain my existing water rights. For further clarification, this will be at or very near the existing diversion point.

2. Shelbys further agree that they no longer have any use for the east ditch below the Walker ditch and forfeit any ditch right therein.

3. Shelbys agree to install a measuring device on the Walker ditch to insure measurement during periods of low water.

4. Both Mr. Shelby and I will sign this letter to show we have reached agreement. Upon their signature and acceptance of this agreement, I formally withdraw the protest against their application for transfer of water rights.

Sincerely yours,

George L. Presley

George L. Presley

Dale Shelby

MICROFILMED

RECEIVED

Route 1
King Hill, Idaho 83633
February 6, 1973

BDF

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

I have sold my property on King Hill Creek to my son-in-law, George L. Presley. Consequently I have no further interest in the protest which I filed against the water move application requested by Mr. Joe Shelby. I hereby transfer my position to Mr. Presley and authorize him to settle this matter.

Sincerely,

Charles C. Kast

Charles C. Kast

snp

MICROFILMED

RECEIVED
NOV 16 1973
Department of Water Administration

P. O. Box 401
King Hill, Idaho 83633
November 15, 1973

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

After my discussion with you yesterday, I contacted Dale Shelby this morning and we both agreed that due to pressing problems of getting our cattle in off the range that we would be unable to be prepared for a hearing on November 19.

We both believe that we can reach agreement without going to a hearing but would like to have a 60-day delay in scheduling a new hearing. We will get together in the near future and send you a copy of any agreement we reach.

Sincerely,

George L. Presley

George L. Presley

GLP/snp

MICROFILMED

NAME AND ADDRESS OF SENDER

Indicate type of mail
☐ INSURED ☐ 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	DUE SENDER IF C. O. D.	ENDORSEMENT[1]	R. R. FEE	S. D. FEE	S. H. FEE[2]	RESTRICTED DELIVERY FEE Remarks
1	✓43991	Idaho Land & Appraisal Service								61-0366, 68
		633 N. 4th, Boise, Idaho								
3	✓43992	Mr. Joe T. Shelby								61-0366, 68
4		P.O. Box 367, King Hill, Idaho								
5	✓43993	Mr. Charles C. Rast								61-0366, 68
6		Rt. 1, King Hill, Idaho								
7	✓43994	Wm. E. Ringert, Anderson, Kaufman,								61-0366, 68
8		Anderson & Ringert, P.O. Box 2773, Boise, Id.								
9	✓43995	Don Runberg, Bureau of Land Management								61-0366, 68
10		P.O. Box 2B, Shoshone, Idaho								
11										
12										
14										
15		Sent 11-5-73 by								
16		Susan Whaley								
17										
18										
19										
20										

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	**POSTMASTER, PER** *(Name of receiving employee)*

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid —This Side Up."

[2] Special-handling charges apply only to third- and fourth-class parcels. Special-delivery service also includes special-handling service.

rm 3877-A—Feb. 1972

U.S. GOVERNMENT PRINTING OFFICE

RE: 61-0366 & 61-0368

Send copies of approved transfer to:

(1) Applicant - Joe T. Shelly
(2) Applicants' attorney - Wm Ringert (address in file)
(3) Idaho Land & Appraisal
(4) Bureau of Land Manage
attn: Mr. Don Runberg
P.O. Box 2-B
Shoshone, Id 83352

Conditions of Approval

(1) Measuring device requirement

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
STATE OFFICE

Cecil D. Andrus
Governor

R. Keith Higginson
Director

614 State Street
Statehouse – Annex 2
Boise, Idaho 83720
(208) 384-2215

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

February 28, 1974

Re: Transfer Nos. 61-0366 & 61-0368

Joe T. Shelby
P. O. Box 367
King Hill, Idaho 83633

Dear Mr. Shelby:

Enclosed are copies of your approved Application for Transfer of Water Right Nos. 61-0366 and 61-0368. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your poin of diversion has been placed upon your transfers. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

MICROFILMED

BOBBY D. FLEENOR
Assistant Director

BDF/bjg

Enclosures

RECEIVED
FEB 8 1974
Department of Water Administration

P. O. Box 401
King Hill, Idaho 83633
February 6, 1974

TDF

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

Mr. Dale Shelby and I have reached agreement on their requested transfer of water rights on King Hill Creek. The points of agreement are as follows and I request that they be made a matter of record with your agency.

1. Shelbys or their successors hereby agree to partipate financially on a 50-50 basis in the construction of a diversion at point where I can obtain my existing water rights. For further clarification, this will be at or very near the existing diversion point.

2. Shelbys further agree that they no longer have any use for the east ditch below the Walker ditch and forfeit any ditch right therein.

3. Shelbys agree to install a measuring device on the Walker ditch to insure measurement during periods of low water.

4. Both Mr. Shelby and I will sign this letter to show we have reached agreement. Upon their signature and acceptance of this agreement, I formally withdraw the protest against their application for transfer of water rights.

Sincerely yours,

George L. Presley

George L. Presley

Dale Shelby

MICROFILMED

RECEIVED

Route 1
King Hill, Idaho 83633
February 6, 1973

BDF

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

I have sold my property on King Hill Creek to my son-in-law, George L. Presley. Consequently I have no further interest in the protest which I filed against the water move application requested by Mr. Joe Shelby. I hereby transfer my position to Mr. Presley and authorize him to settle this matter.

Sincerely,

Charles C. Kast

Charles C. Kast

snp

MICROFILMED

RECEIVED
NOV 16 1973
Department of Water Administration

P. O. Box 401
King Hill, Idaho 83633
November 15, 1973

Mr. Bobby D. Fleenor
Assistant Director
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Fleenor:

After my discussion with you yesterday, I contacted Dale Shelby this morning and we both agreed that due to pressing problems of getting our cattle in off the range that we would be unable to be prepared for a hearing on November 19.

We both believe that we can reach agreement without going to a hearing but would like to have a 60-day delay in scheduling a new hearing. We will get together in the near future and send you a copy of any agreement we reach.

Sincerely,

George L. Presley

George L. Presley

GLP/snp

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NAME AND ADDRESS OF SENDER

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1	43996	Joe T Shelby P.O. Box 367 Hung Hill Del.								W-0366 + 68
2	43997	Charles C Hart Rt. 1 Hung Hill Del								" "
3	43998	Dale Shelby P.O. Box 367 Hung Hill Del								" "
4	43999	George L. Bunting P.O. Box 401 Mt. Hope Md.								" "
5	44000	Dr. Pinkney B & M P.O. Box 2L Shortline Del								" "
6	44001	A C Smith " 1, 133 N.4, B Del								" "
7										
8										
9										
10										
11										
12										
13										
14										
15		Sent 11-16-73 by df								
16										
17										
18										
19										
20										

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PS Form 3877-A—Feb. 1972

U.S. GOVERNMENT PRINTING OFFICE

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 44001

INSURED NO.

DATE DELIVERED

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Dan Land + Appraisal

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Kent M. Smith

3 SHOW WHERE DELIVERED (*only if requested*)

df

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

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RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43997

INSURED NO.

DATE DELIVERED 11-17-73

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Charles Kast

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Virginia Kast

3 SHOW WHERE DELIVERED (*only if requested*) 61-0366 R-68

df

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
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☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43999

INSURED NO.

DATE DELIVERED

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) George D. Presley

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Sharron Presley

3 SHOW WHERE DELIVERED (*only if requested*)

df

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

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RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43998

INSURED NO.

DATE DELIVERED 11/20/73

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

3 SHOW WHERE DELIVERED (*only if requested*)

df

c55—16—71548-11 347-198 GPO

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CERTIFIED NO. 43996

INSURED NO.

DATE DELIVERED 11/20/73

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2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

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df

c55—16—71548-11 347-198 GPO

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OFFICIAL BUSINESS



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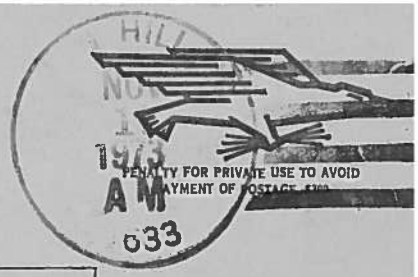
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STATEHOUSE - ANNEX #2
BOISE, IDAHO 83707

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OFFICIAL BUSINESS



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☐ Show to whom, date and address where delivered

☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

H4000

INSURED NO.

DATE DELIVERED

11/19/73

cf

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)

Bureau of Land Management

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

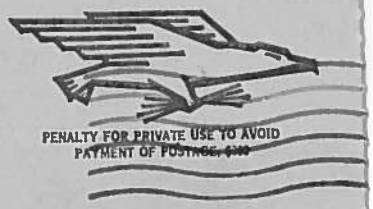
[redacted]

3 SHOW WHERE DELIVERED (*only if requested*)

[redacted]

o55—16—71648-11 347-198 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS



PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

SHOSHONE ID
A M
NOV 19
1973
83352

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☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43992

INSURED NO.

DATE DELIVERED 11/6/73

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Joe T Shelby

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Mark Shelby

SHOW WHERE DELIVERED (*only if requested*)

SW

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S). REQUIRED FEE(S) PAID.

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43993

INSURED NO.

DATE DELIVERED 11/9/73

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Charles Kast

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (*only if requested*)

SW 61-0366,68

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S). REQUIRED FEE(S) PAID.

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43994

INSURED NO.

DATE DELIVERED NOV 6 1973

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Wm. J. Ringert

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Anita McCormick

SHOW WHERE DELIVERED (*only if requested*)

SW

c55—16—71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S). REQUIRED FEE(S) PAID.

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 43995

INSURED NO.

DATE DELIVERED 11/7/73

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Donald E Kuhlby

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (*only if requested*)

SW

c55—16—71548-11 347-198 GPO

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RECEIPT

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REGISTERED NO.

CERTIFIED NO. 43991

INSURED NO.

DATE DELIVERED NOV 6 1973

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Helen Sandvoss

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (*only if requested*)

SW

c55—16—71549-11 347-198 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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BOISE, IDAHO 83707

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

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PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

POD Form 3811 Apr. 1969 c55—16—71548-11

November 16, 1973

Charles C. Kast
Route 1
King Hill, ID 83633

Re: Applications for Transfer of Water Rights No.'s 61-0366 & 61-0368

Dear Mr. Kast:

The conference &/or hearing set for November 19, 1973, in Mountain Home, Idaho, concerning the above referenced applications has been postponed until a later date.

After we have determined an acceptable date, from the schedules of the interested parties, a new conference &/or hearing will be set. We will then notify you of that date. If an agreement is reached before a new hearing date has been set, please notify us.

Sincerely,

ROBERT W. HAMILTON
Supervisor of Water Distribution

RWH:def

CC: Dale Shelby
George L. Presley
Bureau of Land Management
Idaho Land & Appraisal Service

COPY
DELIVERED

November 16, 1973

Joe T. Shelby
P. O. Box 367
King Hill, ID 83633

Re: Applications for Transfer of Water Rights No.'s 61-0366 & 61-0368

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Sincerely,

ROBERT W. HAMILTON
Supervisor of Water Distribution

RWH:def

CC: Dale Shelby
George L. Presley
Bureau of Land Management
Idaho Land & Appraisal Service

COPY
MICROFILMED

61-0366, 61-0368 - Joe T. Shelby

Elmore County Courthouse, Mountain Home, Idaho

November 19, 1973 - 1:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

OF THE

STATE OF IDAHO

In the Matter of Protest Against Approval of Applications for Transfer of Water Right Nos. 61-0366 and 61-0368 in the name of JOE T. SHELBY	NOTICE OF CONFERENCE AND/OR HEARING

On October 25, 1972, Joe T. Shelby filed with the Department of Water Administration applications for transfer of water rights. On November 16, 1972, the Department received a protest against approval of said transfers from Charles C. Kast.

The Department has set the matter of protest for conference and/or hearing for Monday, November 19, 1973, at 1:00 p.m., in the Elmore County Courthouse, Mountain Home, 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 Administration. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

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 protestant may allow the Department without prejudice to dismiss the protest or the transfer. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 5th day of November, 1973.

Kenneth H. Foit

KENNETH H. FOIT, P. E.
Western District Engineer

FILED

January 11, 1973

Re: Applications for Transfer of Water Right
No. 61-0366 & 61-0368 - Joe T. Shelby

Mr. Don Runberg
Bureau of Land Management
P. O. Box 2 B
Shoshone, Idaho 83352

Dear Mr. Runberg:

Pursuant to your request, please find enclosed a copy of the protest filed by Mr. Charles Kast against the above referenced applications for transfer.

We hope to set this matter for conference &/or hearing in the near future, at which time we will notify you of the time and place.

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

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enclosure

MICROFILMED

Identification No. 61-0366

Transfer No. _____

RECEIVED
DEC 20 1972
Department of Water Administration

APPLICATION FOR TRANSFER OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Grant Johnson, watermaster of _____,

of Water District No. 61-F, County of Elmore, State of Idaho,

whose address is ✓ Rt 1 Mustaugh Idaho,

have read the attached copy of the application for transfer of water right for

Joe T. Shelby, and to the best of my knowledge believe the
(name)

application to be true.

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

No exceptions

OR

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

✓Dated at Mustaugh, Idaho, this 14 day of November, 1972.

Grant Johnson
(Signature)
Grant Johnson

MICROFILMED

November 20, 1972

Re: Transfer Applications No. 61-0366 &
61-0368 - Joe T. Shelby

Mr. William F. Ringert
Anderson, Kaufman, Anderson & Ringert
P.O. Box 2773
Boise, Idaho 83701

Dear Mr. Ringert:

Enclosed please find a copy of the protest filed against the above referenced applications for transfer. The following are the principle items we can consider at a conference &/or hearing in either approving or denying a transfer application:

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 a conference &/or hearing to discuss the matters of protest.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enc: Copy of protest

cc: Joe T. Shelby
Enc: Copy of protest

MICROFILMED

November 20, 1972

Re: Transfer Applications No. 61-0366 &
61-0368 - Joe T. Shelby

Mr. Charles C. Kast
Route # 1
King Hill, Idaho 83633

Dear Mr. Kast:

We acknowledge receipt of your protest against the above referenced applications for transfer. The following are the principle items we can consider at a conference &/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 a conference &/or hearing to discuss the matters of protest.

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

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

MICROFILMED

RECEIVED
NOV 16 1972
Department of Water Administration

Route 1
King Hill, Idaho 83633
November 14, 1972

Accepted 11/16/72
BDF

Mr. R. Keith Higginson, Director
Idaho Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Higginson:

I am writing to protest the Notices of Proposed Change of Water Rights No. 61-0366 and No. 61-0368 as published in the Mountain Home News on November 2, 1972.

The reason for this protest is that changing this water to a higher diversion point on King Hill Creek will affect all of the existing diversion points below Mr. Shelby's proposed diversion point in the NW¼ SW¼, Sec. 26, Twp. 4 S, Rge. 10 E.

If this change is allowed, it will make it very difficult for me to obtain my rights from the creek during periods of low water in late summer.

Sincerely,

Charles C Kast

Charles C. Kast

CCK/snp

MICROFILMED

November 3, 1972

Re: Transfer App. Nos. 61-0366 & 61-0368
Joe T. Shelby

Mr. William R. Ringert
Anderson, Kaufman, Anderson & Ringert
P.O. Box 2773
Boise, Idaho 83701

Dear Mr. Ringert:

This is to acknowledge receipt of the copies of the water right deeds in connection with the above referenced applications for transfer of water right.

The copies have been placed in our files and additional proof of ownership will not be required.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

NOTIFIED

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
LAWYERS
IDAHO BUILDING
BOISE, IDAHO 83701

EUGENE H. ANDERSON
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT
D. BLAIR CLARK

AREA CODE 208
TELEPHONE MAIN 5-
POST OFFICE BOX 2773

RECEIVED
NOV 2 1972
Department of Water Administration

November 1, 1972

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attn: Donald W. McEldowney

Gentlemen:

Herewith are photocopies of Water Right Deeds from Grant A. Johnson and wife to Shelbys Land & Cattle, Inc., and from Shelbys Land & Cattle, Inc., to Joe T. Shelby.

These copies are furnished to you as proof of ownership of the water rights covered by the applications for transfer filed by Joe T. Shelby in your office on October 26, 1972. These are the applications I discussed with Mr. Higginson and Mr. McEldowney at your office on October 26, 1972.

Please advise if any additional proof of ownership is required in connection with the application for transfer.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
William F. Ringert

WFR:am
Enclosures

MICROFILMED

October 27, 1972

Re: Transfer Application No. 61-0366 and 61-0368

Grant Johnson, Secretary
Water District No. 61-F
King Hill, Idaho 83633

Dear Mr. Johnson:

Enclosed is a copy of Application for Transfer No. 61-0366 and 61-0368. Please review these applications and submit your comments on the enclosed forms no later than November 16, 1972.

Your assistance in this matter is appreciated.

Very truly yours,

Donald W. McEldowney
Water Rights Administrator

DWM/cd

Enc: Transfers
recommendation forms

MICROFILMED

October 26, 1972

Re: Transfer App. No. 61-0366 & 61-0368 - Joe T. Shelby

Mountain Home News
P.O. Drawer O
Mtn. Home, Idaho 83647

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 ample 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. In order to receive payment, the following certification must appear on the bill:

" I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

MICROFILMED

Donald W. McEldowney
Water Rights Supervisor

Bill submitted _____ by _____

DWM:DR
Enc: Legal notices (2)

NOTICE OF PROPOSED CHANGE OF WATER RIGHT No. 61-0366

Notice is hereby given that Joe T. Shelby of P. O. Box 367, King Hill, Idaho, has applied to the Dept. of Water Administration for a change of the point of diversion and place of use of the waters of King Hill Creek, tributary to the Snake River. The right sought to be changed is evidenced by Decree to E. M. Kimbrough, in case of Kimbrough -vs- Canfield, dated June 2, 1904, in Fourth District Court, County of Elmore, and is recorded as follows:

Amount: 1.2 cfs.

Priority: April 1, 1876.

Point of diversion: SW¼ NE¼ or NW¼ SE¼, Sec. 34, Twp. 4 S, Rge. 10 E, B. M., Elmore County.

The water is used for irrigation purposes from January 1 to December 31 within the W½ NE¼, Sec. 11; SE¼ SW¼, SW¼ SE¼, Sec. 2; Twp. 5 S, Rge. 10 E, B. M.

TO BE CHANGED AS FOLLOWS

Point of diversion: NW¼ SW¼, Sec . 26 and NE¼ SE¼, Sec. 27; Twp. 4 S, Rge. 10 E, B. M.

The water will be used for irrigation purposes within the NE¼ NE¼, Sec. 1, Twp. 5 S, Rge. 10 E, B. M. and NW¼ NE¼, SE¼ NE¼, N½ NW¼, Sec. 6, Twp. 5 S, Rge. 11 E, B. M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Dept. of Water Administration, Statehouse - Annex 2, Boise, Idaho, on or before November 20, 1972.

R KEITH HIGGINSON
Director

Published in the Mountain Home News at Mtn. Home, Idaho, on November 2 and November 9, 1972.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 61-0366

Notice is hereby given that Joe T. Shelby of P.O. Box 367, King Hill, Idaho, has applied to the Dept. of Water Administration for a change of the point of diversion and place of use of the waters of King Hill Creek, tributary to the Snake River. The right sought to be changed is evidenced by Decree to E. M. Kimbrough, in case of Kimbrough -vs- Canfield, dated June 2, 1904, in Fourth District Court, county of Elmore, and is recorded as follows:

Amount: 1.2 cfs Priority: April 1, 1876

Point of diversion: $SW\frac{1}{4}NE\frac{1}{4}$ or $NW\frac{1}{4}SE\frac{1}{4}$, Sec. 34, Twp. 4 S, Rge. 10 E, B.M., Elmore County.

The water is used for irrigation purposes from January 1 to December 31 within the $W\frac{1}{2}NE\frac{1}{4}$, Sec. 11; $SE\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 2; Twp. 5 S, Rge. 10 E, B.M.

TO BE CHANGED AS FOLLOWS

Point of diversion: $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 26 and $NE\frac{1}{4}SE\frac{1}{4}$, Sec. 27; Twp. 4 S, Rge. 10 E, B.M.

The water will be used for irrigation purposes within the $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 1, Twp. 5 S, Rge. 10 E, B.M. and $NW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$, Sec. 6, Twp. 5 S, Rge. 11 E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Dept. of Water Administration, Statehouse - Annex 2, Boise, Idaho, on or before November 20, 1972.

R. KEITH HIGGINSON, Director

Published in the Mountain Home News at Mtn. Home, Idaho, on November 2 and November 9, 1972.

M E M O R A N D U M

FROM: Don McEldowney

DATE:

TO: R. Keith Higginson

SUBJECT: Bill Ringert; Application for Transfer - Shelby King Hill Creek

The application and fees meet minimum quanity requirements. Mr. Ringert will be in at 10:00 a.m. October 26, for a conference on these transfers.

Transfer No. 61-0366

Item No. 6. Period of use stated as January 1 to December 31. This would seem excessive as indicated by Item X of the Decree.

Item No. 7. of the Decree does not list the point of diversion. However, we should have a specific 40 acre tract within which the diversion is located.

Item No. 8. Legal description in the Decree could provide for a maximum of 160 acres.

Item No. 9. Before the project is completed we will need evidence of the ownership of the right.

Item No. 10a. This point of diversion should be subject to Item Number VII of the Decree which places requirements on the point of diversion ans also requires a 6 inch seepage loss at times.

Item 10b. This must be listed by a specific 40 acre tract and can not be in conflict with Item No. VII of the Decree or evidence submitted proving no conflict.

Item 11a The applicant proposes a expansion from 160 acres to 175 acres.

*Applicant should also have knowledge of the provisions of Items VI, VII, VIII, and X of the Decree.

Item 11d. The applicant advises that they are aware this right is not pertinent to the lands claimed under Item 11a, and they do not propose a transfer.

Transfer No. 61-0368

Item No. 6 proposes irrigation from January 1 to December 31 which does not appear to be consistent with the requirements of Item X of the Decree.

Item No. 7. Point of deversion of this right was not defined in the Decree.

Item No. 8. The Decree provides for a maximum of 120 acres of ground because of the 40 acre tract stated in the Decree.

Item No. 9. The applicant must submit evidence of ownership prior to completion of the processing of the Transfer.

Item No. 10b. The Department requires the point of diversion to be identified to a specific 40 acre tract.

Item No. 11. The applicant proposed expansion of the right from a maximum possible of 120 acres to 175 acres.

Item No. 11d. The applicant knows that this right is not pertinent to ground description and does not propose a Transfer.

The applicant and Department should be made aware of the rights and restrictions imposed under Items VI, VII, VIII, and IX of the Decree.

Processing Change Period of case 4-1/11-1
or
3-15/11-15

MICROFILMED

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
LAWYERS
IDAHO BUILDING
BOISE, IDAHO 83701

EUGENE H. ANDERSON
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT
D. BLAIR CLARK

AREA CODE 208
TELEPHONE 342-4551
POST OFFICE BOX 2773

October 24, 1972

RECEIVED
1972
Department of Water Administration

State of Idaho
Department of Water Administration
614 W. State Street
Boise, Idaho

Gentlemen:

Herewith are two Applications for Transfer of Water Right, each made by Joe T. Shelby, whose address is P. O. Box 367, King Hill, Idaho.

Please file and process these applications in your office.

Our check for $60.00 is herewith in payment of your fees.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
William F. Ringert

WFR:am
Enclosures

cc: Joe T. Shelby
Idaho Land & Appraisal Service

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NAME AND ADDRESS OF SENDER

Indicate type of mail
☐ INSURED ☐ C. O. D. ☐ CERTIFIED

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1	43996	Joe T Shelby P.O. Box 367 Hung Hill Del.								W-0366 + 68
2	43997	Charles C Hart Rt. 1 Hung Hill Del								" "
3	43998	Dale Shelby P.O. Box 367 Hung Hill Del								" "
4	43999	George L. Bunting P.O. Box 401 Mt. Hope Md.								" "
5	44000	Dr. Pinkney B & M P.O. Box 2L Shortline Del								" "
6	44001	A C Smith " 1, 133 N.4, B Del								" "
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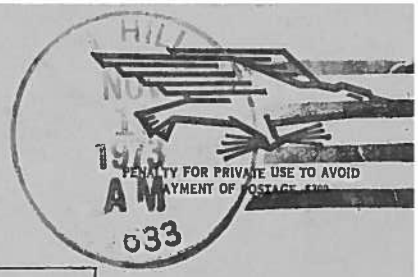
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Bureau of Land Management

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

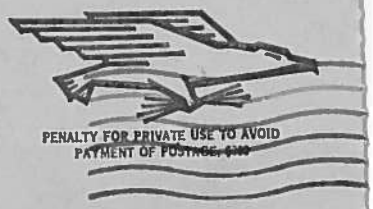
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