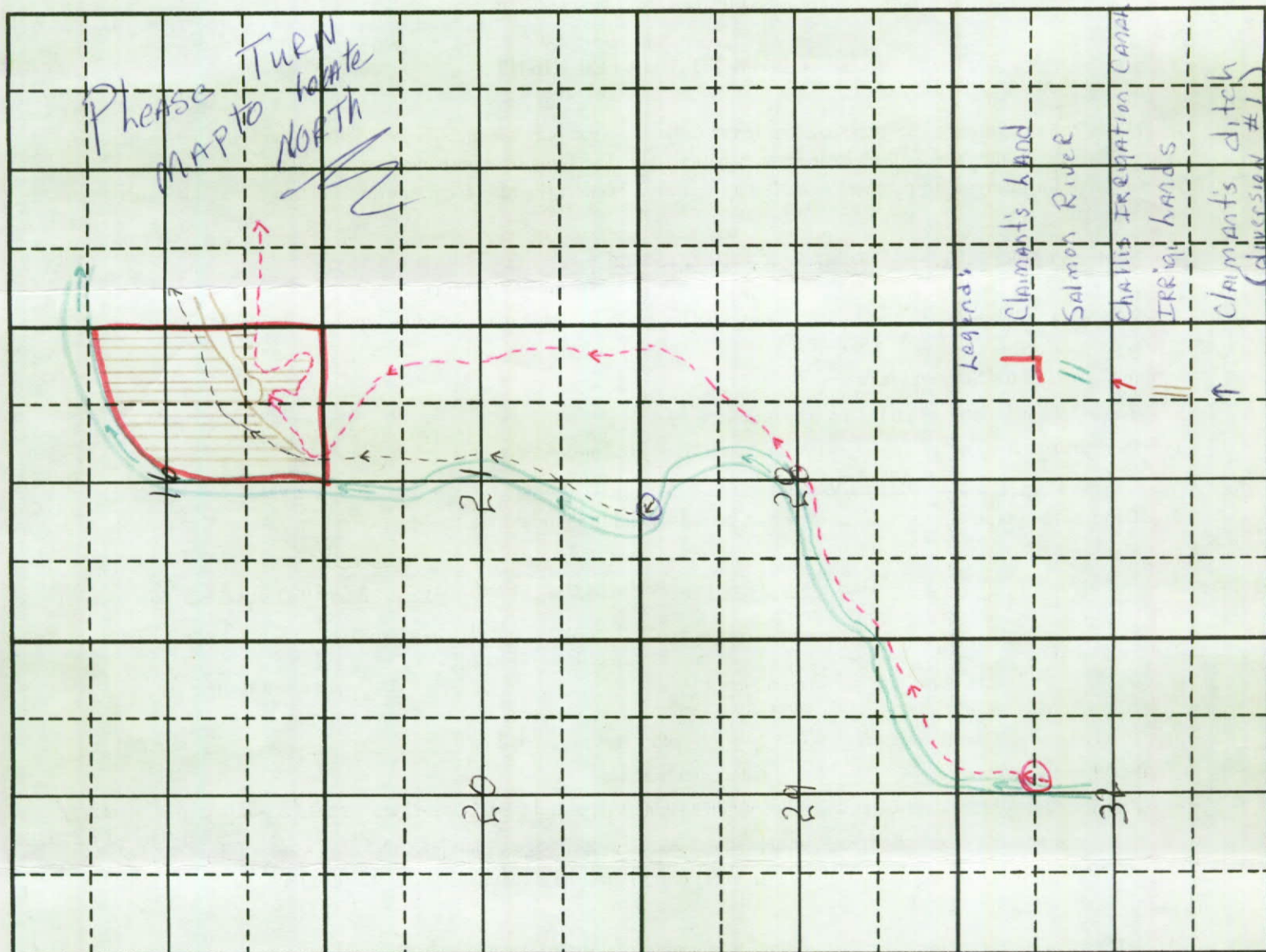


- (8) Remarks Much of claimant's land is stripped with gravel close to the surface and requires more than the normal duty of water. A portion requires 2" to the acre or more.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Custer) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 5th day of September, 1979.

Notary Public
Residing at Challis, ID

My commission expires 10/10/77

For Department Use Only

Received by <u>LT</u>	Date <u>9-9-74</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>NB</u>	Date		claimant by:	
\$10.00 fee received by <u>LT</u>	Date <u>9-9-74 (13992)</u>			
Approved for publication by <u>LT 9-30-74</u>				
Published in <u>Challis Messenger</u>				
Dates <u>9-19 & 9-26-74</u>				

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4805
WATER RIGHT NO(S). 72-00184/72-04020

This is to certify that: JO ANN BENNETTS
JAMES R BENNETTS
PO BOX 36
CHALLIS ID 83226

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 72-00184 :			
IRRIGATION	04/15 to 10/15	4.00 CFS	273.0 AF
Priority: 11/18/1890			
Right No. 72-04020 :			
IRRIGATION	04/15 to 10/15	4.20 CFS	273.0 AF
Priority: 06/01/1890			
TOTAL:		8.20 CFS	* 273.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
SALMON RIVER	SNAKE RIVER

LOCATION OF POINT(S) OF DIVERSION: Lot 3(SWNE), Sec. 32, Township 13N, Range 19E
CUSTER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
13N	19E	16	Lot 3(SWNE) 13	Lot 3(SENE) 26	NESE 15	
			Lot 4(NWSE) 21	Lot 7(SWSE) 3		78
Total number of acres irrigated:						* 78

CONDITIONS OF APPROVAL AND REMARKS

1. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.

RECORDED
1997

TRANSFER NO. 4805
WATER RIGHT NO(S). 72-00184/72-04020

CONDITIONS OF APPROVAL AND REMARKS

3. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
8. Approval of this transfer in no way confirms Right No. 72-04020.
9. Right No. 72-04020 has multiple priorities claimed reflecting development of the system; 1890 for 2.50 cfs, 1930 for 0.50 cfs, 1966 for 1.20 cfs.
10. Combined Right Nos. 72-00184 and 72-04020 shall not exceed a total combined diversion rate of 8.20 cfs, nor a total combined annual diversion volume of 273.0 af, for the total combined irrigation of 78.0 acres.

Dated this 4th day of February, 1997.


Chief, Water Alloc. Bureau

MICROFILMED

MAR 11 1997

CLAIM TO A WATER RIGHT

Notice is hereby given that JAMES R. BENNETTS

of Box 36, Challis, Idaho 83226

The extent and nature of said claim is as follows:

- Amount 4.2 cfs Use Irrigation Period of Use: From April 15 To October 30

Amount _____ Use _____ Period of Use: From _____ To _____

Amount	Use	Period of Use: From	To

(dom., irri.,
stock, etc.)

(both dates inclusive)

- (4) Priority claimed: (the date water was first applied to beneficial use) 1890 on 2.5 cfs/1930 on .5 cfs/
1966 on 1.2 cfs
 A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

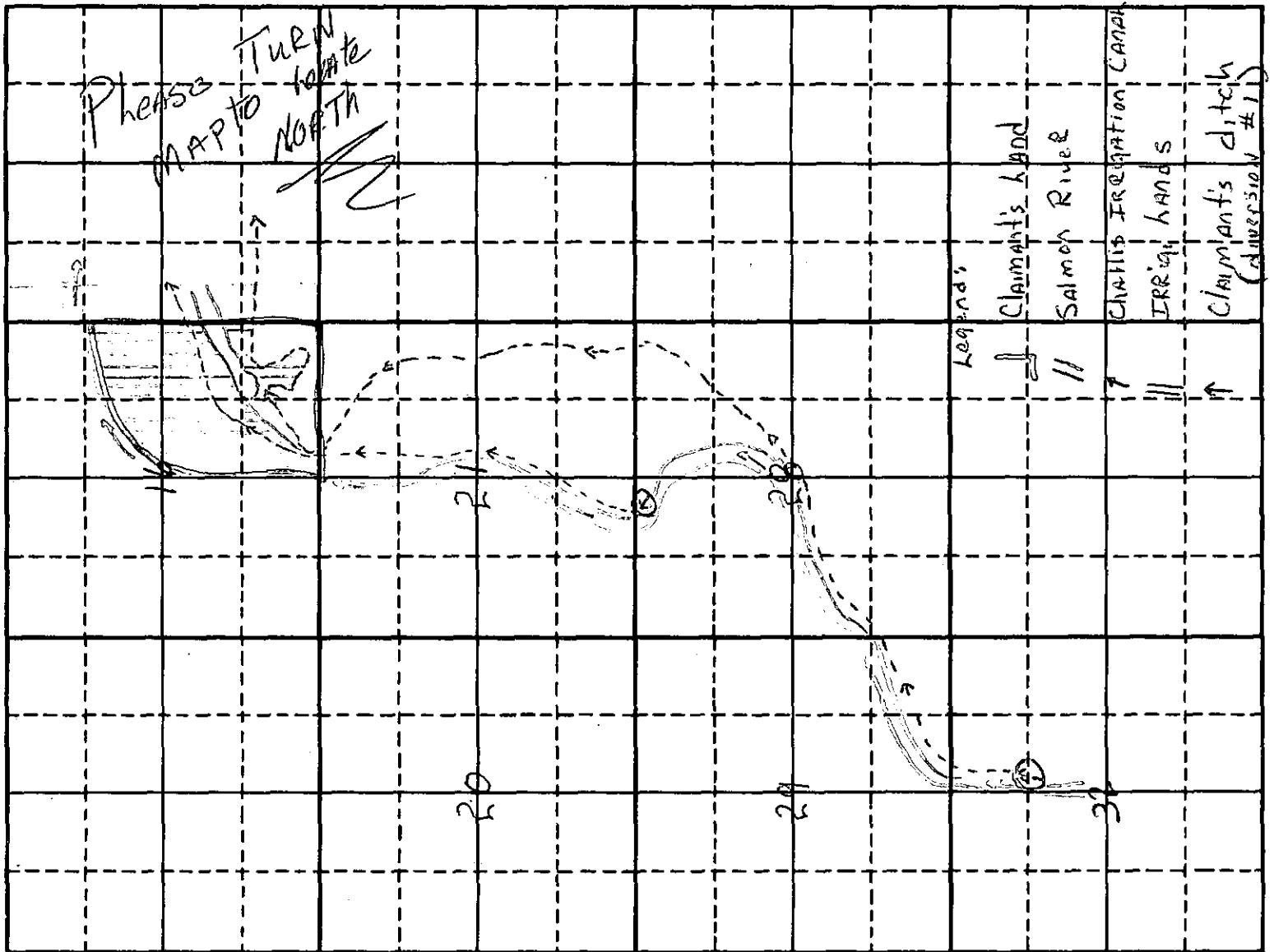
- B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Diversion No. 1 is a ditch owned by Claimant and partner approximately 1 1/4 miles long, 7 ft. wide & 2 ft. deep capable of carrying approx. 20 cfs. No. 2 is an organization ditch approx. 16 ft. wide, 5 ft. deep & flowing beyond Claimant for several miles.

- [illegible]

Total No. of acres 125

- (7) If you are claiming water as a member of an organization, list name of organization: I have 5 shares in the Challis Irrigation Co. (Diversion No. 2). Diversion No. 1 is a partnership ditch. The interests are 2/3 in the George Keyes Estate and 1/3 in myself.

- (8) Remarks Much of claimant's land is stripped with gravel close to the surface and requires more than the normal duty of water. A portion requires 2" to the acre or more.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Custer) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 5th day of September, 19 74.

James B. Smith
(Claimant)
Janita Pava
Notary Public
Residing at Challis, ID

My commission expires 10/10/77

For Department Use Only

Received by <u>LT</u>	Date <u>9-9-74</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>mb</u>	Date		claimant by:	
\$10.00 fee received by <u>LT</u>	Date <u>9-9-74 (13992)</u>			
Approved for publication by <u>LT 9-30-74</u>				
Published in <u>Challis Messenger</u>				
Dates <u>9-19 & 9-26-74</u>				

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS.....

Publisher of the Challis Messenger,
a weekly newspaper, published at
Challis, Idaho, do solemnly swear
that the notice hereto attached and
made a part hereof, was published
in the regular and entire issue of
the Challis Messenger for 2.....

consecutive weeks, commencing with
the issue dated SEPT. 19.....,
1974 and ending with the issue
dated SEPT. 26....., 1974..

Margaret Parks.....

Subscribed and sworn to before
me this 27 day of Sept.....,
1974.

Rebecca Butcher.....
Notary Public, residing at Challis,
Idaho. My commission expires on
10/26/77.....

NOTICE OF CLAIM TO A WATER RIGHT

NO. 72-4020

Notice is hereby given that
James R. Bennetts, Box 36, Chal-
lis, Id., has filed a claim to a water
right established by diversion and
application to beneficial use of 4.2
cubic feet per second of water
from Main Salmon River, tributary
to Snake River with point of diver-
sion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, T
13 N, R 19E., B.M., Custer Co.

The water is claimed to be used
from Apr. 15 to Oct. 30 for irriga-
tion of 125 acres with a priority of
1890 on 2.5 cfs/1930 on .5 cfs/1966
on 1.2 cfs; the place of use is with-
in the S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 16, T
13N, R 19E, B.M.

Any exception to this claim of
water right may be filed with the
Idaho Department of Water Re-
sources, 1041 Blue Lakes Blvd.,
North, Twin Falls, Idaho, 83301 on
or before 10-7-74.

R. KEITH HIGGINSON
Director

Published in the Challis Messen-
ger on 9-19 and 9-26-74.



RECEIVED

SEP 30 1974

Department of Water Resources
Southern District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

February 5, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JO ANN BENNETTS
JAMES R. BENNETTS
PO BOX 36
CHALLIS ID 83226

RE: WATER RIGHT NOS: 72-00184 AND 72-04020
TRANSFER NO: 4805

Dear Water Right Holder:

Enclosed is a copy of your approved Transfer of Water Right for the above referenced water rights. Please be sure to thoroughly read the Conditions and Remarks listed on the transfer.

The accompanying **transfer approval** should be considered and treated as a **preliminary order** of the department issued 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 department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from 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. 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 twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the 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, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties, if any, to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director 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 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.

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MAR 11 1997

APPEAL OF FINAL ORDER TO DISTRICT COURT

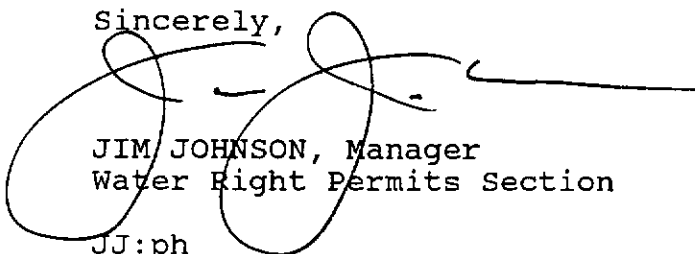
Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district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

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

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:ph

Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of February, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Transfer Approval) to the person(s) listed below:

Transfer No. 4805
Water Right Nos. 72-00184 and 72-04020

JOANN BENNETTS
JAMES R. BENNETTS
PO BOX 36
CHALLIS ID 83226



Patti Harrell
Secretary

MICROFILMED

MAR 11 1997

MEMORANDUM

TO: FILE NOS. 72-00184 & 72-04020

FROM: PAM SKAGGS/STATE OFFICE

SUBJECT: TRANSFER NO. 4805

DATE: August 7, 1996

=====

This is one of four transfer applications filed to consolidate diversions from the Salmon River into the existing Challis Irrigation Company Canal S-32, eliminating separate diversion points and changing the place of use to reflect current practices. Transfer No. 4805 proposes to change the point of diversion and place of use under Right Nos. 72-00184 & 72-04020.

The rate of diversion recommended under this transfer approval is higher than the standard 0.02 cfs/acre at 0.137 cfs/acre, as determined necessary and historically used by SRBA investigation and Hubble analysis of the system.

Statutory Claim No. 72-04020 was filed with multiple priority dates describing the development of the system. This transfer approval reflects the claim the way it was originally filed and the SRBA will confirm the actual priority date or dates under this right.

Season of use and diversion volume were adjusted to current standards. Recommended conditions include measuring device, future annual reporting, irrigation overlap, right-of-way and standard transfer conditions.

MICROFILMED

MAR 11 1997

MEMORANDUM

TO: FILE 72-~~00184~~ ⁰⁴⁰²⁹
FROM: PAM SKAGGS
RE: TRANSFER # 4805
DATE: 4/23/96

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 72-00184.

MICROFILMED

MAR 11 1997

XXXXXXXXXXXXXXXXXXXXX RESOURCES

October 7, 1974

RE: Claim to a Water Right No. 72-4020

Mr. James R. Bennetts
Box 36
Challis, Idaho 83226

Dear Mr. Bennetts:

The Department of Water Resources has completed the processing of your claim to a water right, and no further action is authorized under Sections 42-225a and 42-225b of the Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of your claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing a copy of the claim for your records. If you have any questions or if we can be of further assistance, please feel free to contact us.

Very truly yours,

Bob Haynes
Southern District Engineer

BH:lt

enc.

RECEIVED
OCT 10 1974
SOUTHERN DISTRICT

XXX RESOURCES

September 10, 1974

RE: Application No. 72-4020 - James R. Bennetts

Challis Messenger
P.O. Box 405
Challis, Idaho 83226

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.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Bob Haynes
Southern District Engineer

Bill submitted
MICROFILMED 1-74 LT

Published in the Challis Messenger on 9-19 and 9-26-74

Director
R. KEITH HIGGINSON
North, Twin Falls, Idaho, 83301 on
or before 10-7-74
Idaho Department of Water Resources, 1041 Blue Lakes Blvd.
Any exception to this claim of
water right may be filed with the

13N, R 19E, B.M.
in the S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 16, T
on 1.2 cfs; the place of use is with-
1890 on 2.5 cfs/1930 on .5 cfs/1966
tion of 125 acres with a priority of
from Apr. 15 to Oct. 30 for irriga-
The water is claimed to be used

13 N. R 19E, B.M., Custer Co.
tion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, T
to Snake River, with point of diver-
from Main Salmon River, tributary
cubic feet per second of water
application to beneficial use of 4.2
right established by diversion and
James R. Bennett, Box 36, Chal-

Notice is hereby given that
NO. 72-4020
A WATER RIGHT
NOTICE OF CLAIM TO

RECEIVED

SEP 19 1974

Department of Water Resources
Southern District Office

9-19-74
sk L T

NOTICE OF CLAIM TO A WATER RIGHT

NO. 72-4020

Notice is hereby given that James R. Bennetts
Box 36, Challis, Id.
has filed a claim to a water right established by diversion and application
to beneficial use of 4.2 cubic feet per second ~~xxxxxx feet per second~~
of water from Main Salmon River, tributary to Snake River
with point of diversion in the NE1/4, Sec. 28, T 13N, R 19E, B.M., Custer Co.

The water is claimed to be used from Apr. 15 to Oct. 30 for irrigation
of 125 acres
with a priority of 1890 on 2.5 cfs/1930 on .5 cfs/1966 on 1.2 cfs;
the place of use is within the S1/4, SE1/4, Sec. 16, T 13N, R 19E, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls,
Idaho, 83301 on or before 10-7-74.

R. KEITH HIGGINSON

Director

Published in the Challis Messenger
on 9-19 and 9-26-74

MICROFILMED

XXXXXXXXXXXXXXXXXXXXX RESOURCES

September 10, 1974

RE: Application for Claim No. 72-4020

Mr. James P. Bennetts
P.O. Box 36
Challis, Idaho 83226

Dear Mr. Bennetts:

Enclosed is your Receipt No. 13992 for Check No. 92-207 in the amount of \$10.00 for the above referenced claim to a water right which was received in this office September 9, 1974.

Very truly yours,

Lydla L. Tippet
Secretary

LT

enc.

MICROFILMED

XXXXXXXXXXXXXXXXXXXXX RESOURCES

September 10, 1974

RE: Application for Claim No. 72-4020

Mr. James R. Bennetts
P.O. Box 36
Challis, Idaho 83226

Dear Mr. Bennetts:

Enclosed is your Receipt No. 13992 for Check No. 92-297 in the amount of \$10.00 for the above referenced claim to a water right which was received in this office September 9, 1974.

Very truly yours,

Lydia L. Tippet
Secretary

LT

enc.

RECORDED