

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 69984**

BOISE CASCADE CORP
PO BOX 476

EMMETT ID 83617, has filed Application No. 69984 for changes to the following water rights within GEM County:

Priority 6/1/1916 Right No. 65-587 ✓
Source PAYETTE RIVER
Use INDUSTRIAL (0 acres) 19.04 CFS 1,1912.0 AFA
Total Amount 19.04 CFS 1,1912.0 AFA

Point(s) of Diversion L3 NWNW S7 T06N R01W

Place of Use S12 T06N R02W

Remark: Applicant wishes to change their Point of Diversion to a proposed pump station in the lot 6 SENW S12 T6N R2W because their current gravity diversion system is inefficient, expensive and environmentally intrusive. The pump station will be shared with Boise Cascade. See accompanying transfer no. 69984.

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 together with a protest fee of \$25.00 for each application on or before July 22, 2002. The protestant must also send a copy of the protest to the applicant.

Pub.: 7/3, 10, 2002

KARL J DREHER, Director

Legal Notice No. 4704
Published in the Messenger Index

AFFIDAVIT OF PUBLICATION

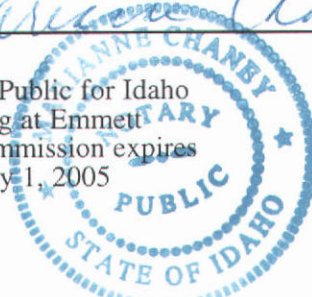
STATE OF IDAHO)
County of Gem) SS.

ANTHONY M. CLARK
of Emmett, Gem County, Idaho, being first duly sworn,
deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principal Clerk of the Messenger Index, a weekly newspaper published in the City of Emmett in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of fifty-two consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in the newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:
July 3, 10, 2002

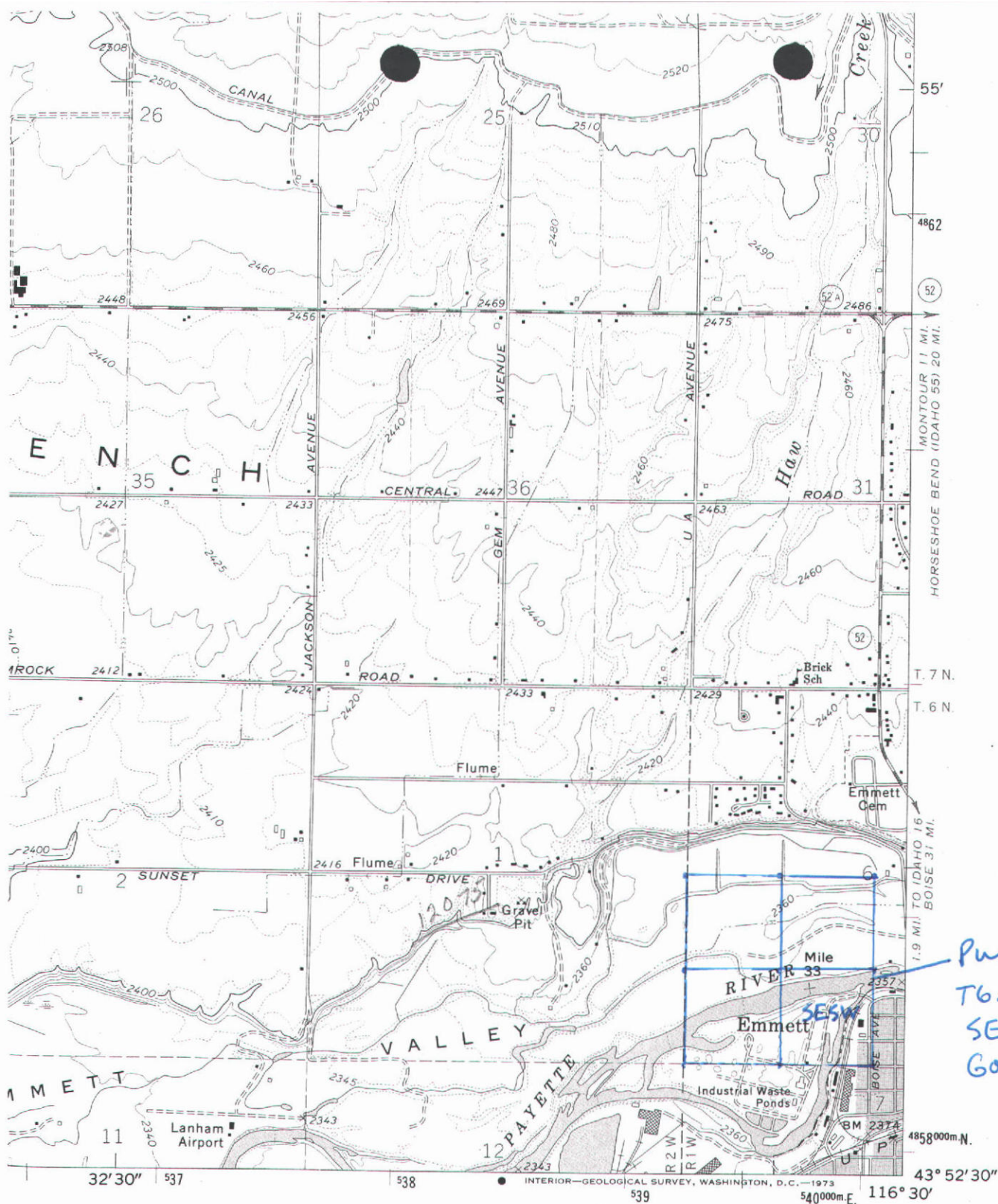
Anthony M. Clark
STATE OF IDAHO)
County of Gem)

On this 10th day of July in the year of 2002 before me a Notary Public, personally appeared. Anthony M. Clark 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 acknowledge to me that she executed the same.

Marianne Chaney
Notary Public for Idaho
Residing at Emmett
My Commission expires
February 1, 2005


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RECEIVED
JUL 11 2002
WATER RESOURCES
WESTERN REGION



Push-up dam
T6N R1W S6
SESW
Gov Lt 12

1 MILE
00 FEET
TER



ROAD CLASSIFICATION

Primary highway, hard surface ————
Secondary highway, hard surface ————
Light-duty road, hard or improved surface ————
Unimproved road ————

○ Interstate Route ○ U. S. Route ○ State Route

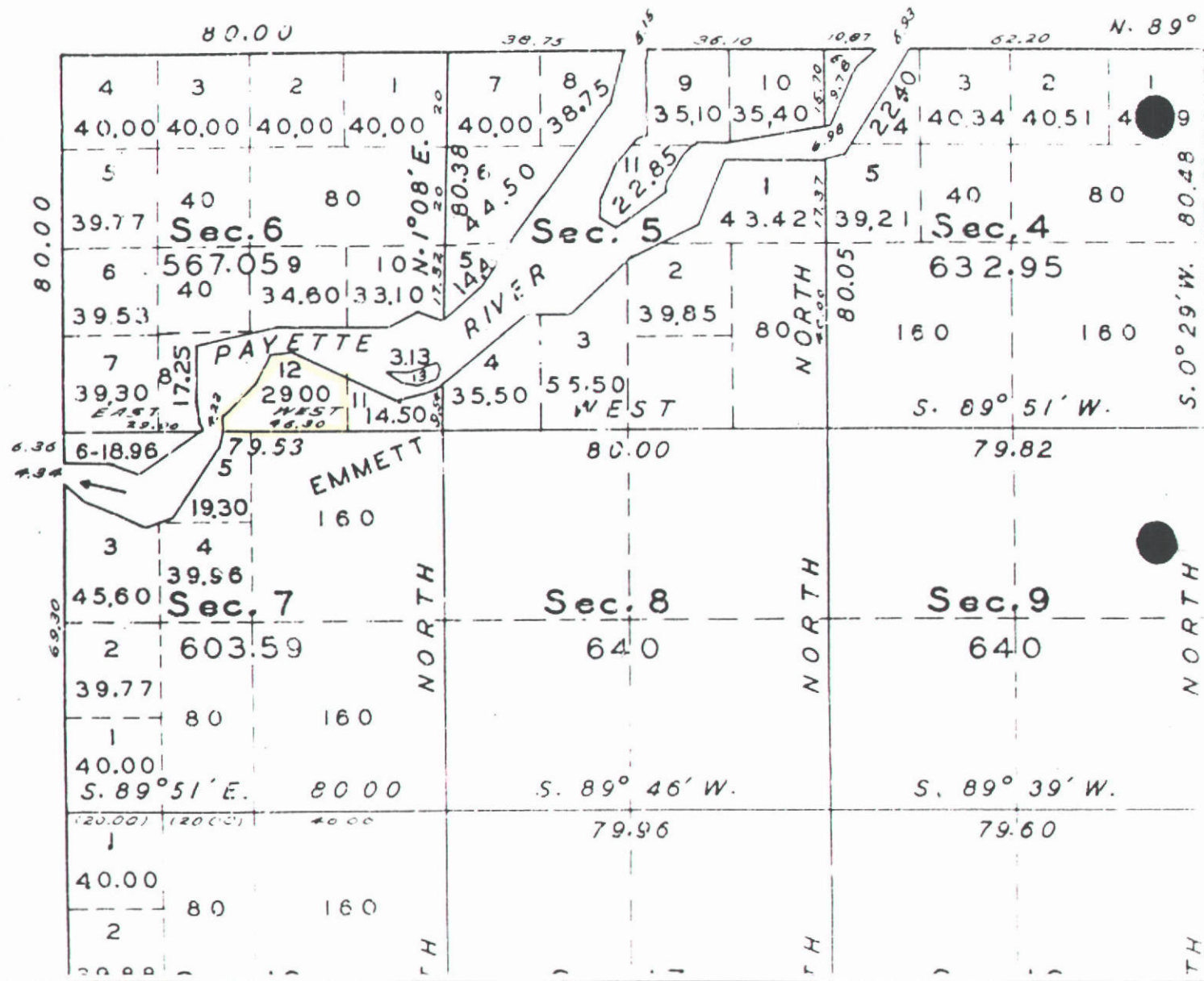
(MONTGOMERY 1:62,500)
MICROFILMED
SEP 09 2003

V. D. C. 20242
ST

NORTHWEST EMMETT, IDAHO
N4352.5—W11630/7.5
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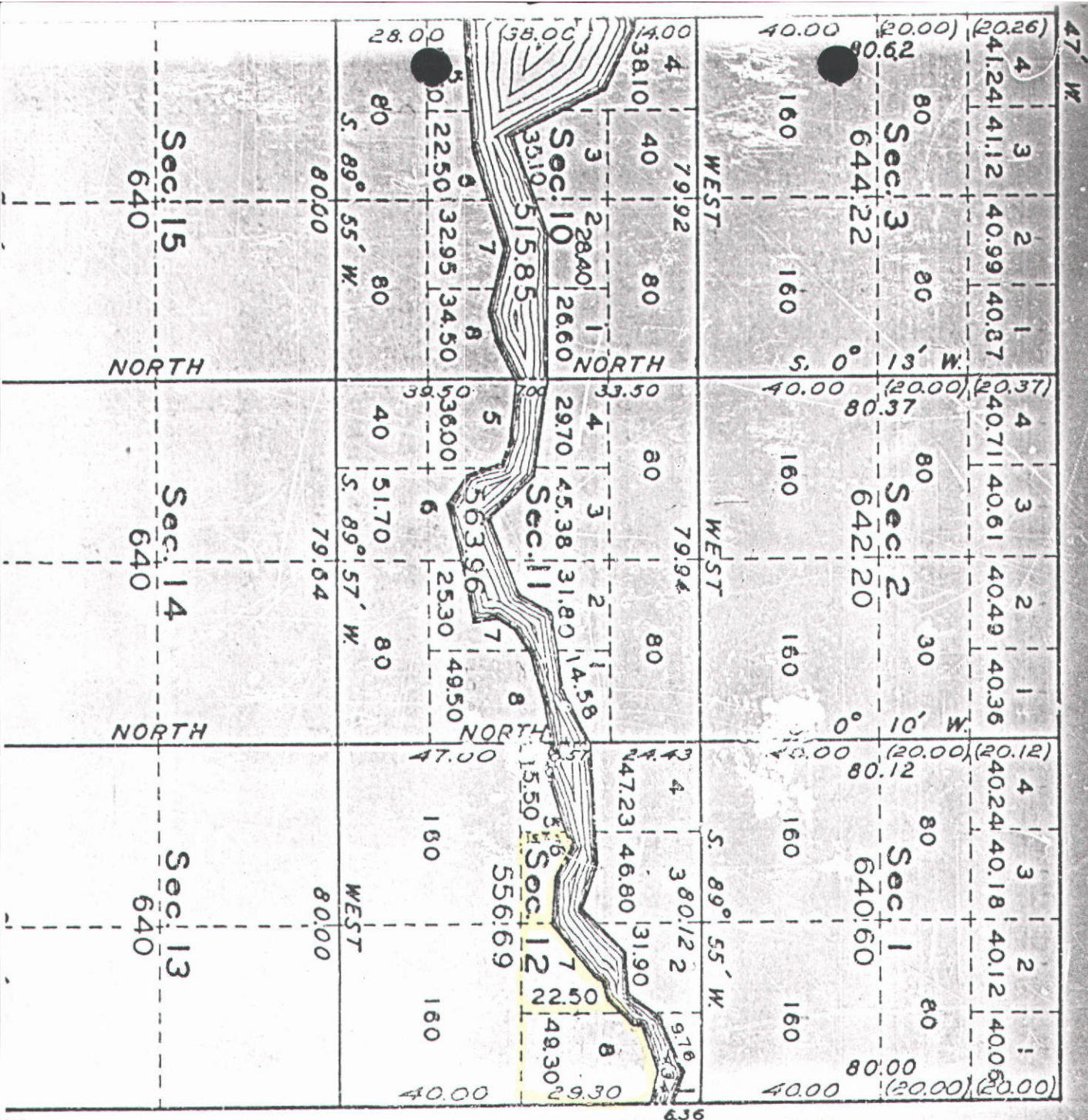
W6

COMPOSITE
TOWNSHIP N° 6 NORTH. RANGE N° 1



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SEP 09 2003





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SEP 09 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 11, 2004

BOISE CASCADE CORP
REGION ENVIRONMENTAL ENGINEER
PO BOX 476
EMMETT ID 83617

RE: APPLICATION TO LEASE PART OF WATER RIGHT NO(S). 65-585, 65-586, ~~65-587~~, 65-593, 65-594, 65-595, 65-597, 65-2622, 65-2706, 65-2950, 65-5787, 65-7094, 65-7884, 65-8003, AND 65-12755 TO THE WATER SUPPLY BANK

Dear Lessor.

The Department of Water Resources ("department") has completed its review of the Applications to Sell or Lease Water Right(s) to the Water Supply Bank ("bank"). Please consider that the offered water right(s) are accepted into the bank.

Several items to keep in mind in connection with the lease of a water right to the bank are as follows

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented from the bank.
3. While water rights authorized for domestic use from a groundwater source are leased to the bank, water may not be diverted at the place of use authorized under the rights for the same purpose to meet the exemption of section 42-227, Idaho Code.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease.
5. While a water right is in the bank, forfeiture provisions are stayed
6. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

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MAR 22 2004

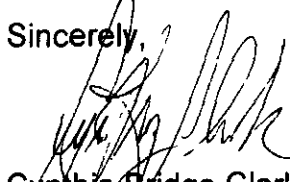
7. Rental of the right from the bank may require additional review to confirm the availability of the surface water sources and the extent of beneficial use available under the right.
8. In accordance with Transfer no. 69984, the diversion rate and volume available for lease under water right no. 65-587 is 18.28 cubic feet per second and 11541.8 acre-feet respectively.
9. The water rights referenced above will be rented from the bank at the current rental rate. However, the lessor reserves the right to negotiate a different rental rate for a multi-year rental agreement.
10. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance.

Please consider that the rights will automatically be released from the bank on **December 31, 2008**, unless the rights are released earlier by the Water Resource Board, or upon a request from the owner of the rights. To change the term of the lease, the lessor must submit a request to the department in writing prior to the release date.

Enclosed is a copy of the Internal Revenue Service Request for Taxpayer Identification and Certification, Form W-9. The department is required to file an information return with the Internal Revenue Service ("IRS") for all rental payments issued to owners of water rights leased to the bank. Please return this form to my attention. Payments for the rental of a water right or a part thereof cannot be issued to the lessor unless the department has received a completed IRS W-9 form.

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

Sincerely,



Cynthia Bridge Clark
Water Allocation Bureau

Encl: 1

c: John Westra – IDWR Western Regional Office
Bruce Smith, Moore, Smith, Buxton & Tucke, Chartered.

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MAR 22 2004

MEMORANDUM

File(s): 65-585, 65-586, 65-587, 65-593, 65-594, 65-595, 65-597, 65-2622, 65-2706, 65-2950, 65-5787, 65-7094, 65-7884, 65-8003, and 65-12755

From: Cynthia Bridge Clark

Date: March 9, 2004

Re: Lease of Water Right(s) to the State Water Supply Bank

Boise Cascade Corp Region Environmental Engineer filed separate applications to lease the above referenced water rights to the Water Supply Bank ("bank"). In addition to the standard conditions pertaining to rights leased to the bank, several specific conditions were applied to provide for their acceptance into the bank:

- Water rights 65-585, 65-5787 and 65-7094 authorize domestic use from a ground water source. Condition no. 3 specifies that a domestic exemption should not be exercised at the place of use described by these rights while they are leased to the bank.
- Many of these rights have a surface water source, including springs. Condition no. 7 specifies that additional information may be required to document the availability of the source prior to rental of the rights from the bank. Additionally, the uses authorized under these rights vary from industrial use, domestic, heating, commercial storage, etc. It may be necessary to determine the extent of beneficial use if a change in nature of use is required for rental from the bank.
- Water right 65-587 is subject to approved transfer 69984. The transfer recognizes an agreement between the protestant and the right holder in which 0.76 cfs of the right is designated to provide conveyance water for other water rights. The application to bank proposes that the remainder of the right be leased to the bank ($19.04 \text{ cfs} - 0.76 \text{ cfs} = 18.28 \text{ cfs}$ available for lease). Given that the diversion volume authorized under the right is for year round industrial use (11,912 af), the volume leased to the bank was determined by subtracting the volume associated with the diversion rate withheld for the length of the corresponding irrigation season: $11,912 \text{ af} - (0.76 \text{ cfs} \times 1.98 \times 246 \text{ days}) = 11541.8 \text{ af}$. (See Condition no. 8).
- The applicant's attorney, Bruce Smith, was informed of the review findings in a telephone conversation on 3/9/2004, and confirmed that the current rental rate would be acceptable for an annual rental agreement, but requests the opportunity to negotiate a different rental price for a multi-year rental agreement. (Condition no. 9).

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MAR 22 2004

RECEIVED

JAN - 9 2004

Water Supply Bank No. _____

Department of Water Resources

Water Right No. 65-00587

Emmett

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

Name of Seller/Lessor Boise Cascade Corp. Region Environmental Engineer Phone (208) 365-4431

Post office address P.O. Box 476 Emmett, Idaho 83617

1. DESCRIPTION OF WATER RIGHT.

Right evidenced by:

a. Decree No 39576, Subcase 65-00587 Decreed to Boise Cascade Corp.

(Name)

in case of In Re SRBA

dated March 8, 2002 in 5th Judicial District of Idaho county of Twin Falls

(Name of court)

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Permit No _____ issued by the Idaho Department of Water Resources

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE. (If the entire right is for sale or lease, show "all" on line a. below and skip the remainder of part 2.)

a. Amount of water under right: ___ cubic feet per second &/or 11,762.00 acre-feet per annum

b. Point of diversion: NW¹/₄ of NW¹/₄ of Section 07 Township 06N Range 01W

B.M. in Gem County.

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MAR 22 2004

Additional points SE¼ SW¼ of Sec. 06 T 06N R 01W, Gem County; SE¼ NW¼ of Sec. 12 T 06N R 02W, Gem County.

c. Place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	2W	12	X	X	X	X				X									

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres _____

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

See Partial Decree in In Re SRBA Case No. 39576, Subcase No. 65-00587

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

See Partial Decree in In Re SRBA Case No. 39576, Subcase No. 65-00587

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

Year-round

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

Not applicable

- e. If the water right is a permit, describe the work accomplished toward developing the right.

Not applicable

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

Not applicable

4. REMARKS

The IDWR issued an order approving Transfer No. 69984 on June 20, 2003. A
portion of this water right, .76 cfs total, is designated to provide conveyance water
for water rights 65-01131A, 65-01131B, 65-01131C, 65-01148A, 65-01148B, 65-
05558.

5 SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board

_____ For sale;

X For lease for a period from date approved, 2003 to date approved, 2008

(Day, month, year)

(Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or _____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Negotiable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Date

OK
Stacy Bell
Signature **SENIOR VICE PRESIDENT**

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____
Watermaster recommendation requested on _____ Received _____
Recommended for _____ approval _____ denial by _____

2002 MAR -8 PM 2: 20

DISTRICT COURT - CIVIL
 Division of the Court
 1911

MAR 22 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT

AMENDED

TRANSFER NO. 69984

This is to certify that: BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617
(208)365-4431

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
65-587	WR/Decreed	06/01/1916	19.04 cfs	11912 af	N/A	N/A	PAYETTE RIVER

Purpose of Transfer (Changes Proposed)

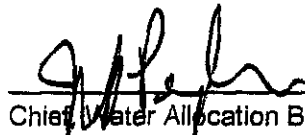
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
65-587	NO	YES	NO	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
65-587	65-587	19.04 cfs	11912 af	N/A	N/A		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		19.04 cfs	11912 af	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 19 day of June, 20 03


For Chief Water Allocation Bureau

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MAR 22 2004

WATER RIGHT NO. 65-587
As Modified by Transfer No. 69984

In accordance with the approval of Transfer No. 69984, Water Right No. 65-587 is now described as follows.

Right Holder: BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617

Priority Date: June 01, 1916

Source: PAYETTE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	01/01	to 12/31	19.04 CFS	11,912.0 AF
			19.04 CFS	11,912.0 AF

LOCATION OF POINT(S) OF DIVERSION:

PAYETTE RIVER L12 (SESW) Sec. 6 Twp 06N Rge 01W GEM County

PAYETTE RIVER L3 (NWNW) Sec. 7 Twp 06N Rge 01W GEM County

PAYETTE RIVER L6 (SENW) Sec. 12 Twp 06N Rge 02W GEM County

PLACE OF USE: INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N 02W 12	X	X	X	X				X									
	L8	L7	L7	L8				L6									

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
2. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
3. The total instantaneous diversion of water from all points of diversion under Right 65-587 shall not exceed 19.04 cfs, nor total combined annual volume of 11,912.0 af.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

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MAR 22 2004

WATER RIGHT NO. 65-587
As Modified by Transfer No. 69984

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
8. Industrial use is for log pond storage and sawmill use.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 19 day of June, 20 03


For Chief, Water Allocation Bureau

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APR 22 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 20, 2003

BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617

RE: Transfer No.: 69984 - Water Right 65-587- Amended Transfer Approval Notice

Dear Water Right Holder(s)>:

The Department of Water Resources has issued the enclosed approved Amended Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's homepage on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

MICROFILMED

JUN 23 2003

If you have any questions, please contact me at 208-327-7940.

Sincerely,

Camela S Skaggs

for Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

cc: ROBERT D WORTHINGTON
BRUCE M SMITH, ATTORNEY

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CERTIFICATE OF SERVICE

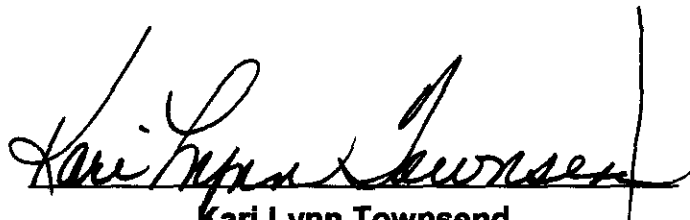
I hereby certify that on June 20, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 69984 - WATER RIGHT 65-587

**BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617**

**ROBERT D WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617**

**BRUCE M SMITH
MOORE SMITH BUXTON & TURCKE
225 N 9TH ST #420
BOISE ID 83702**


Kari Lynn Townsend
Secretary

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SEP 09 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 20, 2003

RON SHURTLEFF
WATERMASTER
102 N MAIN
PAYETTE ID 83661

RE: AMENDED TRANSFER OF WATER RIGHT 65-587 - (Transfer 69984)

Dear Ron

Enclosed is a copy of the recently approved Amended Transfer of Water Right for the above referenced water right (Transfer 69984) in the name of Boise Cascade Corp.

If you have any questions, please call me at 208-327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:kit

Enclosure

MICROFILMED

SEP 09 2003

EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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 to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

MICROFILMED

SEP 09 2003

MEMORANDUM

Date: June 18, 2003

To: Transfer File 69984

From: Jeff Peppersack

Re: Phone Conversation with Tammy Zokan

I called Tammy Zokan, attorney, to discuss the petition for reconsideration for this transfer approval. I suggested that IDWR could strike conditions 4 and 5 because the conditions were created from the stipulated agreement between applicant and protestants to resolve the protest and the agreement does not suggest that the conditions be included on the approval.

Since the original point of diversion was not removed, and the need for conveyance loss still exists for other ditch users, and since the amount of water historically used for conveyance loss could be used under the industrial use (as long as enlargement does not occur), the conclusion is that the conditions as written are too restrictive and ultimately unnecessary.

Ms. Zokan conferred with Bruce Smith, attorney, and left a message that they are agreeable to remove the conditions from the approval.

MICROFILMED

SEP 09 2003

RECEIVED

JUN 11 2003

Department of Water Resources

Bruce M. Smith, ISB #3425
Tammy A. Zokan, ISB #5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
Attorneys at Law
225 North 9th Street, Suite 420
Boise, ID 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorneys for Applicant Boise Cascade Corporation

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 69984 (WATER RIGHT	)	
NO. 65-587) IN THE NAME OF	)	PETITION FOR
BOISE CASCADE CORPORATION	)	RECONSIDERATION
_____	)	

COMES NOW the Applicant Boise Cascade Corporation ("Applicant") and petitions the Idaho Department of Water Resources ("Department") for reconsideration of its preliminary order in the above noted matter, dated May 28, 2003. The Applicant specifically takes exception to the preliminary order's conditions of approval numbers 4 and 5, relating to conveyance water for the Smith Ditch. The Applicant's Petition for Reconsideration is timely and should be granted.

Conditions of approval numbers 4 and 5 of the preliminary order declare:

4. The portion of Right 65-587, in the amount of 0.76 cfs, is limited to use for conveyance losses in the delivery of the following rights and distributed to each as shown: 65-1131A (0.11 cfs), 65-1131B (0.11 cfs), 65-1131C (0.44 cfs), 65-1148A (0.02 cfs), 65-1148B (0.04 cfs), and 65-5558 (0.04 cfs). This amount shall be diverted into the Smith Ditch at a diversion point located in L3 (NWNW), Sec. 7, T6N, R1W, so long as these rights are diverted into Smith Ditch.

5. Diversion of water by the pump located in L6 (SENW), Sec. 12, T6N, R2W is limited to a maximum diversion rate of 18.28 cfs.

MICROFILMED

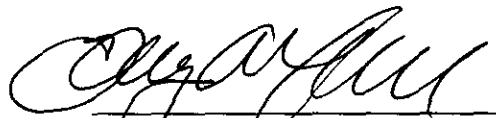
JUN 09 2003

The Applicant takes exception to these conditions for the reason that it voluntarily agreed to designate and provide conveyance water to the Smith Ditch water users so long as the individual water rights described in condition number 4 were actually conveyed through the Smith Ditch. Upon the termination of use of the Smith Ditch, the designated conveyance water reverts back to the Applicant and the Applicant should be allowed to divert the water at Applicant's pumping station located in L6 (SEnw), Sec. 12, T6N, R2W. Thus, condition 4 should explicitly state that the 0.76 cfs allowed for conveyance reverts back to the Applicant when the individual rights are no longer diverted into the Smith Ditch. Additionally, condition 5's limitation on the diversion located in L6 (SEnw), Sec. 12, T6N, R2W should be revised to account for the Applicant's reversionary interest. Condition 5 should limit the L6 (SEnw), Sec. 12, T6N, R2W diversion only for so long as the water rights identified in condition 4, or portion thereof, are actually diverted into the Smith Ditch. Furthermore, any limitation should correspond to the conveyance loss allowed for the water rights actually being diverted.

The Applicant respectfully requests that the Department reconsider its preliminary approval dated May 28, 2003 and revise the conditions of approval as described herein to protect the Applicant's water right and preserve the terms of the Applicant's agreement to provide conveyance water to the Smith Ditch water users.

DATED this 11th day of June 2003.

MOORE SMITH BUXTON & TURCKE,
CHARTERED

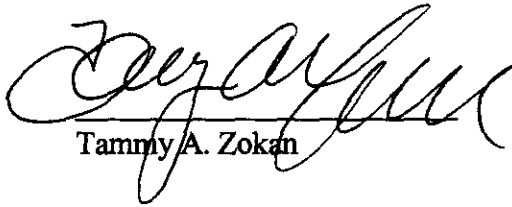


Tammy A. Zekan
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of June, 2003, I served a copy of the **PETITION FOR RECONSIDERATION** by depositing the same in the United States mail, postage prepaid, in an envelope, addressed to the following:

Robert Worthington
715 Airport Road
Emmett, Idaho 83617


Tammy A. Zokan

FILED
JUN 9 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 29, 2003

BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617
ID 83617

RE: Transfer No.: 69984 - Water Right 65-587 - Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's homepage on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

MICROFILMED

SEP 09 2003

If you have any questions, please contact me at 208-327-7940.

Sincerely,

Camela S. Skaggs
for Jeff Peppersack, Manager
Water Rights Permits Section

Enclosure(s)

JP:klt

cc: ROBERT D WORTHINGTON
BRUCE M SMITH, ATTORNEY

MICROFILMED
SEP 09 2003

CERTIFICATE OF SERVICE

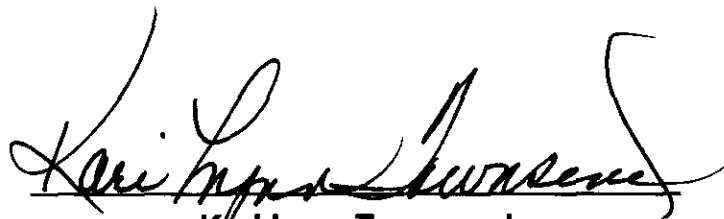
I hereby certify that on May 29, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 69984 - WATER RIGHT 65-587

**BOISE CASCADE CORP
PO BOX 476
EMMETT ID 83617**

**ROBERT D WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617**

**BRUCE M SMITH
MOORE SMITH BUXTON & TURCKE
225 N 9TH ST #420
BOISE ID 83702**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
SEP 09 2003**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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 to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (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.

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.

MICROFILMED
SEP 09 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 29, 2003

RON SHURTLEFF
WATERMASTER
102 N MAIN
PAYETTE ID 83661

RE: TRANSFER OF WATER RIGHT 65-587 - (Transfer 69984)

Dear Ron:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water rights (Transfer 69984) in the name of Boise Cascade Corporation.

If you have any questions, please call me at 208-327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

MICROFILMED
SEP 09 2003

S.O. ONLY: Final database update after approval CS *Comment to WR No(s). NA
5-28-03



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

February 18, 2003

BRUCE M SMITH
MOORE SMITH BUXTON & TURCKE
225 N 9TH ST STE 420
BOISE ID 83702

ROBERT WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617

Re: Application for Transfer of Water Right No. 63-587 (Transfer No. 69984) in the Name of
Boise Cascade Corporation

Dear Parties:

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

The department will now continue to process this application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

Gary Spackman

GS:st

MICROFILMED

SEP 09 2003

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

RANSOM J. BAILEY
SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE*
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

RECEIVED

FEB 03 2003

WATER RESOURCES
WESTERN REGION

JOHN J. MCFADDEN*†
Of Counsel

* Also admitted in Oregon
†Also admitted in Washington
° Also admitted in South Dakota
+ Also admitted in New Mexico

January 28, 2003

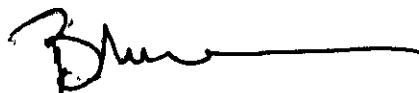
Robert Worthington
715 Airport Road
Emmett, ID 83617

RE: Smith Ditch Users-Memorandum of Agreement

Dear Robert:

I left you a voice mail today indicating that the IDWR would like a written acknowledgement that the Smith Ditch Users were withdrawing their protests to Boise Cascade's transfer for water right 65-00587. Would you please send a letter to the attention of Lori Graves? In case you want to use this letter as your acknowledgment, I have provided a place to sign below and an envelope to send. Thank you for your cooperation.

Sincerely,



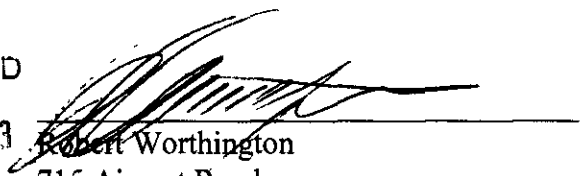
Bruce M. Smith

BMS/aad
Enclosure

The Smith Ditch Users hereby withdraw their protests to the transfer of water right 65-00587.

MICROFILMED

SEP 09 2003



Robert Worthington
715 Airport Road
Emmett, ID 83617



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

August 19, 2002

EMMETT RANGER DISTRICT
1805 HIGHWAY 16, #5
EMMETT ID 83617

Re: Conference Room Reservation

This letter is to confirm the conference room reservation made by the Department of Water Resources for Thursday, August 29.

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

Sincerely,

Sue Taylor
Senior Secretary

MICROFILMED
SEP 09 2003

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.

MICROFILMED

SEP 09 2003

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.

MICROFILMED

SEP 09 2003

RECEIVED

AUG 20 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES

Department of Water Resources

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 69984 IN THE)
NAME OF BOISE CASCADE)
CORPORATION AND APPLICATION)
FOR TRANSFER NO. 69981 IN THE)
NAME OF UNIMIN CORPORATION)

NOTICE OF PREHEARING
CONFERENCE

On June 24, 2002 Boise Cascade Corporation filed with the Department of Water Resources (IDWR) an application for transfer no. 69984. On June 20, 2002 Unimin Corporation filed with the IDWR an application for transfer no. 69981. The applications were protested by Robert Worthington.

IDWR has scheduled a conference for the protests to be held on **Thursday, August 29, 2002 at 2:00 p.m. at the Emmett Ranger District, 1805 Hwy. 16, No. 5, Emmett, Idaho 83617.**

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 Procedure 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 conference will be conducted in a facility that 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 IDWR within (10) days prior to the conference.

Dated this 16th day of August 2002.



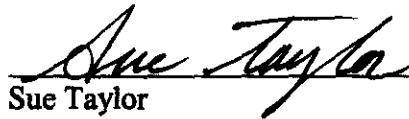
Gary Spackman

NOTICE OF PREHEARING CONFERENCE 1 MICROFILMED

SEP 09 2003

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of August 2002 I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

BOISE CASCADE CORPORATION
PO BOX 476
EMMETT ID 83617

UNIMIN CORPORATION
4601 CASCADE RD
EMMETT ID 83617

ROBERT WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617

NOTICE OF PREHEARING CONFERENCE 2
MICROFILMED

SEP 09 2003



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

August 15, 2002

ROBERT WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617

Re: Application for Transfer No. 69984 in the Name of Boise Cascade Corporation and
Application for Transfer No. 69981 in the Name of Uniman Corporation

Dear Protestant:

This office acknowledges receipt of your protests opposing the above-referenced applications 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 Thursday, August 29, 2002 at 2:00 p.m. at the Emmet Ranger District, 1805 Hwy 16, No. 5, Emmett, Idaho 83617. 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 applicant(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

MICROFILMED

GS:st

Encl. Notice of Conference
Copy of Applications

SEP 09 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

August 15, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

UNIMIN CORPORATION
4601 CASCADE RD
EMMETT ID 83617

BOISE CASCADE
PO BOX 476
EMMETT ID 83617

RECEIVED

AUG 20 2002

Department of Water Resources

Re: Application for Transfer No. 69984

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced applications 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 Thursday, August 29, 2002 at 2:00 p.m. at the Emmett Ranger District, 1805 Highway 16, No. 5, Emmett, Idaho 83617.

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 prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If we may be assistance, please contact us.

Sincerely,


MICROFILMED
Gary Spackman
SEP 09 2003

GS:st

Encl. Copy of Protest
Prehearing Conference Notice

07-02

State of Idaho
Department of Water Resources

RECEIVED
JUL 19 2002
WATER RESOURCES
WESTERN REGION

RECOMMENDATION OF WATERMASTER

Application No: 69984

Applicant's Name: Boise Cascade Corporation

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows: The Irrigators that also divert through the Smith Ditch should be considered and allowed to continue to divert as in the past and or given the opportunity to also change their point of diversion.

- c) ☐ I oppose approval of this application for the following reasons:

d) Additional Comment: _____

Dated this 15th day of July, 2002

Water District No. 65

Ron Shurtleff
Ron Shurtleff, Watermaster

Use reverse side of page if you need more space

MICROFILMED

SEP 09 2003

STATE OF IDAHO
COUNTY OF GEM
ANTHONY M. CLARK
of Emmett, Gem County, Idaho, being first duly sworn,
deposes and says:
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action
2. That I am the Principal Clerk of the Messenger Index, a weekly newspaper published in the City of Emmett in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of fifty-two consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in the newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following.
July 3, 10, 2002
Anthony M Clark
STATE OF IDAHO)
County of Gem)
On this 10th day of July in the year of 2002 before me a Notary Public, personally appeared. Anthony M Clark 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 acknowledge to me that she executed the same
Margaret Chaney
Notary Public for Idaho
Residing at Emmett
My Commission expires
February 1, 2005
MICRO
SEP 11 2002

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Gem) SS.

ANTHONY M. CLARK
of Emmett, Gem County, Idaho, being first duly sworn,
deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action
2. That I am the Principal Clerk of the Messenger Index, a weekly newspaper published in the City of Emmett in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of fifty-two consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in the newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following.
July 3, 10, 2002

Anthony M Clark
STATE OF IDAHO)
County of Gem)

On this 10th day of July in the year of 2002 before me a Notary Public, personally appeared. Anthony M Clark 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 acknowledge to me that she executed the same

Margaret Chaney
Notary Public for Idaho
Residing at Emmett
My Commission expires
February 1, 2005
PUBLIC
STATE OF IDAHO

RECEIVED

JUL 11 2002

WATER RESOURCES
WESTERN REGION



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

July 1, 2002

RON SHURTLEFF
WATER DISTRICT 65
102 N MAIN
PAYETTE ID 83661

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Watermaster:

Enclosed is a copy of the above-referenced application for transfer. Also enclosed is a form for your recommendation concerning this application.

Please review the application. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

Lori Graves

LG:lm

Encl: Copy of Application
Recommendation of Watermaster Form

MICROFILMED

SEP 28 2003



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

July 1, 2002

JUDITH WORTHINGTON
715 AIRPORT RD
EMMETT ID 83617

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Sir or Madam:

Enclosed are copies of the above-referenced applications for transfer which may be of interest to you. Please review the applications 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 you desire to file a formal protest against the approval of any these applications, your written protest, along with the \$25.00 protest fee for each application protested, must be received in this office by July 22, 2002.

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

Sincerely,

Lori Graves

LG:lm

Encl: Copy of Applications

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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

July 1, 2002

ELLIS & KATHERINE VOGEL
1033 LILAC LN
EMMETT ID 83617

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Sir or Madam:

Enclosed are copies of the above-referenced applications for transfer which may be of interest to you. Please review the applications 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 you desire to file a formal protest against the approval of any these applications, your written protest, along with the \$25.00 protest fee for each application protested, must be received in this office by July 22, 2002.

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

Sincerely,

Lori Graves

LG:lm

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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

July 1, 2002

JOHNSON SMITH
617 AIRPORT RD
EMMETT ID 83617

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Sir or Madam:

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Sincerely,

Lori Graves

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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

July 1, 2002

ROBERT STEINEBACK
1077 AIRPORT RD
EMMETT ID 83617

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Sir or Madam:

Enclosed are copies of the above-referenced applications for transfer which may be of interest to you. Please review the applications 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 you desire to file a formal protest against the approval of any these applications, your written protest, along with the \$25.00 protest fee for each application protested, must be received in this office by July 22, 2002.

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

Sincerely,

Lori Graves

LG:lm

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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

July 1, 2002

STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Application for Transfer No. 69984 in the Name of Boise Cascade.
Application for Transfer No. 69981 in the Name of Unimin Corporation.

Dear Sir or Madam:

Enclosed are copies of the above-referenced applications that the proposed use is from surface water. Please review the applications 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 July 22, 2002.

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

Sincerely,

Lori Graves

LG:lm

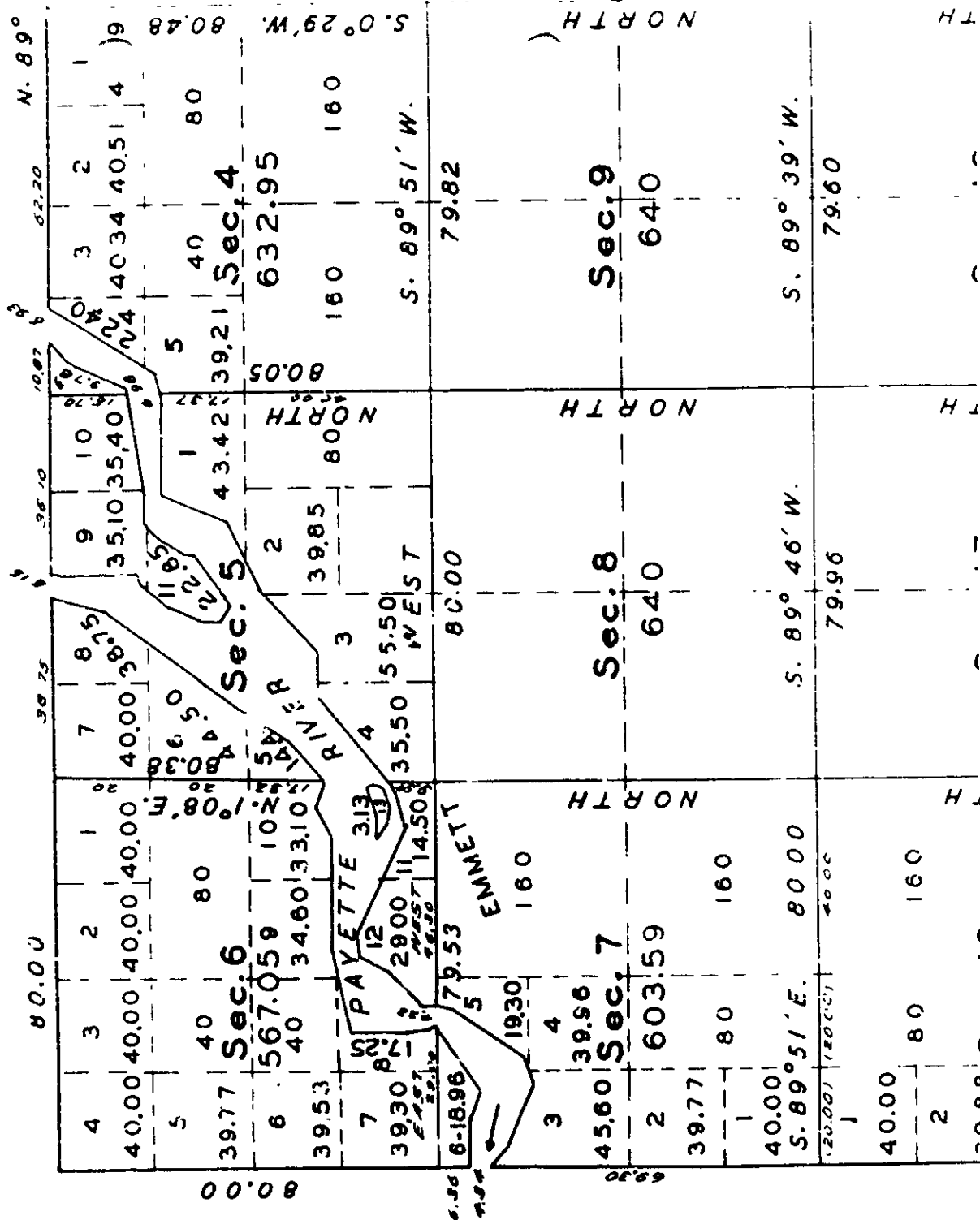
Encl: Copy of Applications

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COMPOSITE

TOWNSHIP N° 6 NORTH. RANGE N° 1

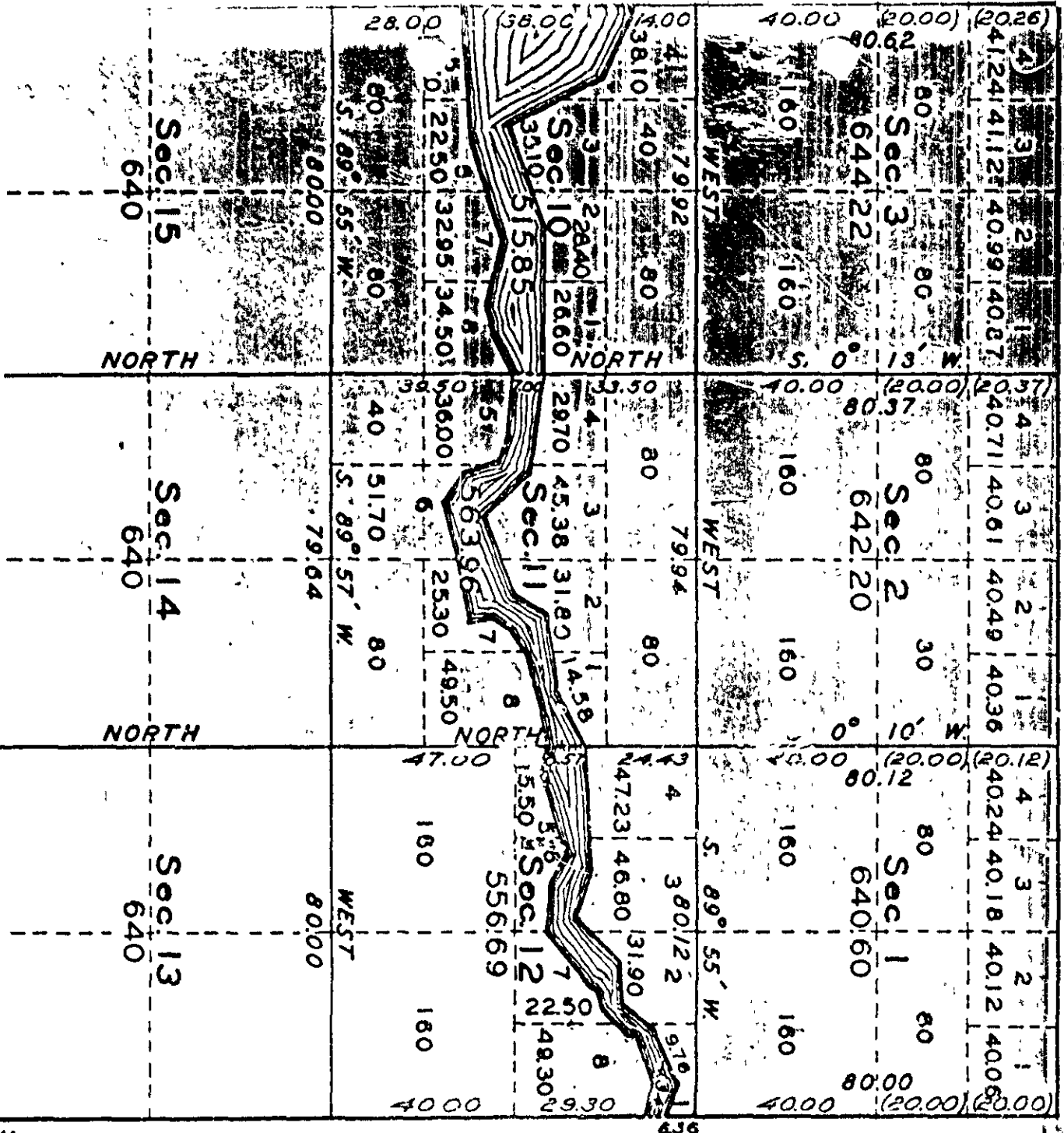


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MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420
BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

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BRUCE M. SMITH
PAUL A. TURCKE*
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

JOHN J. MCFADDEN*
Of Counsel

* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
+ Also admitted in New Mexico

June 20 , 2002

Lori Graves
IDWR- Western Region
2753 Airport Way
Boise, ID 83705

RE: Boise Cascade Application for Transfer

Dear Lori:

Enclosed is an application for transfer of Boise Cascade water right number 65-00587, which is associated with the Emmett mill. The application addresses two points: (1) correcting the original point of diversion description, and (2) adding a new point of diversion which will allow diversion at a different location by means of a pump instead of the existing dam/ ditch structure.

Sincerely,



Bruce M. Smith

BMS/ad

cc: Derrick Crowther
Tony Steenkolk
Britt Ide

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MEMORANDUM

DATE: 6/24/2002

FROM: Lori Graves

TO: X-fer File No. 69984

Attachments

1. Reason For Proposed Change
2. Partial Decree No. 65-587
3. Map

Brief

Applicants propose a new pump station to eliminate the need for a push-up dam and dredging operations in the Payette River channel for the existing p/d and gravity system. Also, the applicants wish to correct the legal description for the existing system just in case the pump station does not get approved &/or a back-up system is needed. The right currently describes the re-diversion point for a canal as the p/d rather than the push-up dam.

History

In the past, Boise Cascade diverted water from the Payette River via a push-up dam located in the main channel, which directed water to a side channel, which was then re-diverted into a canal for fire protection of their facility. The canal was also used to deliver Payette River water to Smith ditch, which is used by five other parties with river rights, including Unimin.

Because of environmental concerns involved with the maintenance of the push-up dam in the main river channel and expenses associated with annual dredging of the river channel and canal, Boise Cascade and Unimin agreed to share the costs associated with a new pump station, thereby eliminating their need for the dam and canal. Unimin also filed a similar transfer for the proposed pump station (#69981).

In consideration of the other four users on Smith ditch, applicants and Unimin held a meeting 2/20/2002 to discuss their proposal. Both companies told the other users that they no longer would foot the bill for maintenance of the dam and leaky canal once the pump station was approved. Boise Cascade and Unimin offered the use of their proposed pump station to the other ditch users so that they could also bypass the inefficient existing diversion system. To date, no other transfers have been received besides Boise Cascade's and Unimin's.

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Also discussed at the meeting was the fact that the original p/d from the Payette River had been misidentified on all the existing water rights. The rights describe the re-diversion point in L3 NWNW S7 T6N R1W rather than the push-up dam located in L12 SESW S6 T6N R1W. Based on this information, maintenance of the push-up dam requires a stream channel alteration permit because the p/d is not represented by a water right or rights. Applicants wish to correct this historical error via this transfer just in case the pump station is not approved &/or a back-up system is needed.

SRBA & Beneficial Use

65-587 has been partially decreed in the SRBA. I contacted Gem County FSA office 6/21/02 and they confirmed ownership as well as industrial use within the last five years for the NE and the SENW S12.

No changes in the right's decreed p/u have been proposed.

Overlaps

Existing P/D: 65-1131A,B,C, -1148A,B, -5558, -12721, 65-12832; eight rights recommended in the SRBA, six total users including applicants. The other five will be sent notice.

Proposed P/D: 65-2511; not claimed in the SRBA.

Recommendations

Send notice to other five users of the existing p/d.

Conditions:

- R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
- X56 The portion of Right 65-587 used for conveyance losses is .76 cfs.
- X61 The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
- T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
- T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point

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in time no later than the entry of the final unified decree.

020 Use of water under this right may be affected by an agreement between the protestant and the right holder.

GEN Use is for log pond storage and sawmill use.

R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.

Will 020 suffice for the withdrawal agreement?

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