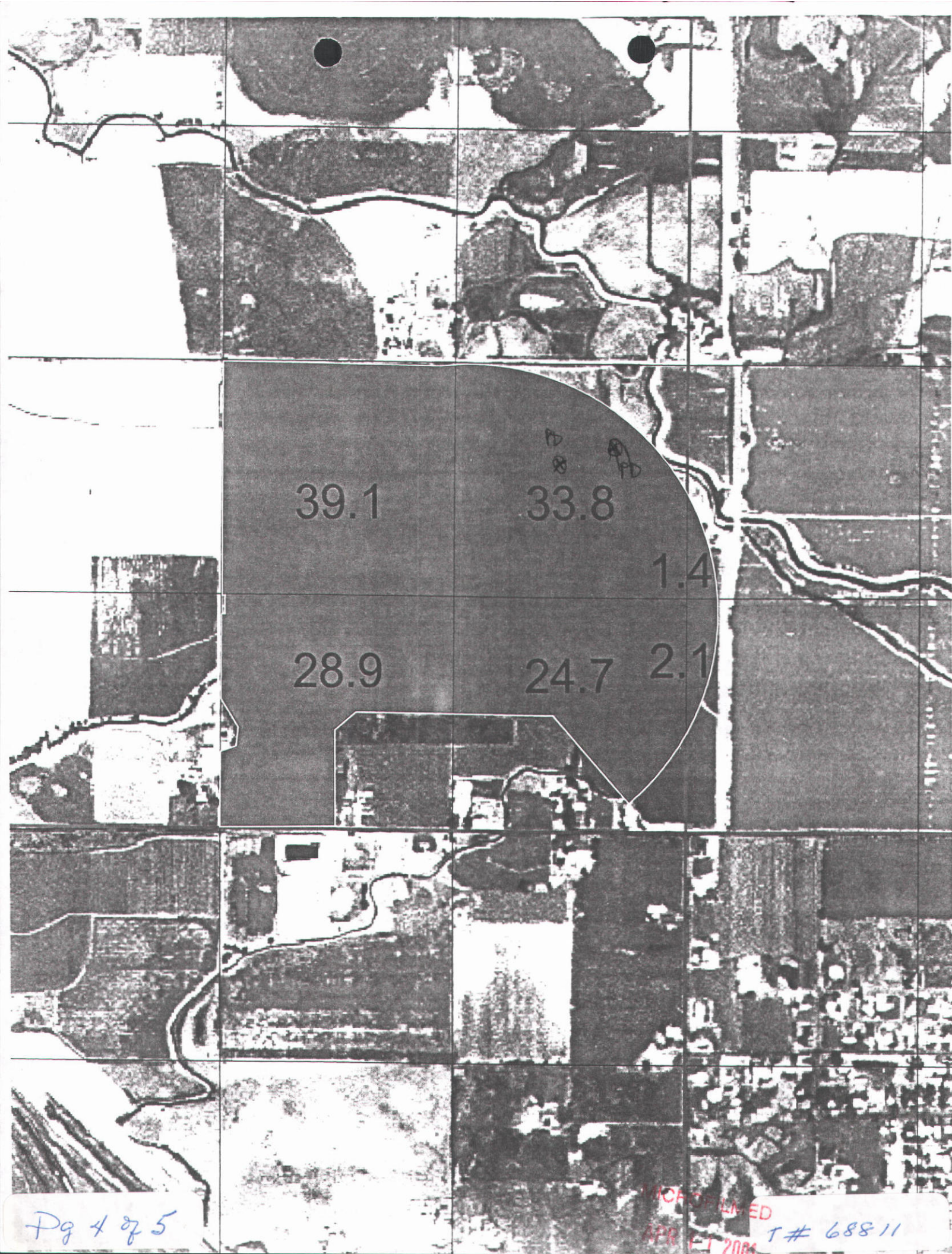




COUNTY

SEC.

TWP.

RGE.

EBM.

HASTING LODGE TRACT



1"=100'

MICROFILMED
APR 11 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 68811

This is to certify that: **MLS FARMS**
C/O BOB MUFFLEY
122 5TH AVE W
GOODING ID 83330

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. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document. The right holder shall accomplish the authorized change within one (1) year of the date of this approval. Failure of the right holder to comply with the conditions of approval for each water right affected by this transfer is cause for the Director to rescind approval of all or part of the transfer.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
36-10522	AJC/Decreed	08/01/1961	0.74 cfs	148 af	37.0	37.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

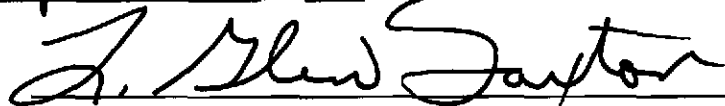
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
36-10522	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-10522	36-10522	0.74 cfs	148 af	37.0	130.0		N/A	N/A	N/A	N/A
TOTALS		0.74 cfs	148 af	37.0	130.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 11th day of April, 2001


Chief, Water Allocation Bureau

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WATER RIGHT NO. 36-10522
As Modified by Transfer No. 68811

In accordance with the approval of Transfer No. 68811, Water Right No. 36-10522 is now described as follows.

Right Holder: MLS FARMS
 C/O BOB MUFFLEY
 122 5TH AVE W
 GOODING ID 83330

Priority Date: 08/01/1961

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.74 CFS	148.0 AF
			0.74 CFS	148.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 29 Twp 07S Rge 15E GOODING County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	15E	28									1.4	2.1							3.5
07S	15E	29													33.8	39.1	28.9	24.7	126.5

Total Acres: 130

CONDITIONS OF APPROVAL

1. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
2. Use of this right is combined with water from North Side Canal Co., Ltd.
3. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.
4. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

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APR 11 2001

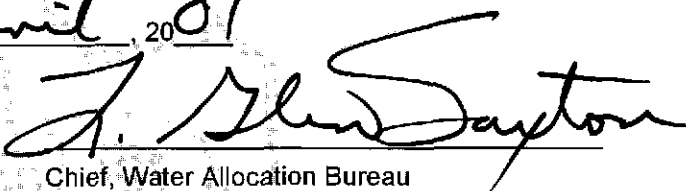
WATER RIGHT NO. 36-10522
As Modified by Transfer No. 68811

CONDITIONS OF APPROVAL

5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
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. Right 36-10522 is limited to the irrigation of 37.0 acres within the place of use described above in a single irrigation season.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the director to rescind the approval of this transfer.

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 11th day of April, 2001


Chief, Water Allocation Bureau

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APR 11 2001

ge 1 of 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 68811

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED

OCT 18 2000

Department of Water Resources
Southern Region

Name of applicant MLS Farms Phone 934-4781
 Office address C/o Bob Muffley, 122 5th Ave W, Gooding, ID 83330

PURPOSE OF TRANSFER

- ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Create PPU

FEB 27 2001

Describe the reason for the proposed changes Ground water is co-mingled with canal shares to operate
a pivot and solid-set sprinklers. Change occurred in 1994, and the water right needs to
reflect this.

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

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-10522</u>	<u>8-1-1961</u>	<u>0.74/148.0</u>	<u>Irrigation</u>	<u>3-15-4-1</u> to <u>11-15-10-31</u>
				to
				to
				to

Total amount of water being transferred 0.74 cubic feet per second and/or 148.0 acre-feet per annum.

Source of water Groundwater tributary to

Point(s) of Diversion: No change

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	<u>NE</u>	<u>NE</u>	<u>SE</u>	<u>29</u>	<u>75</u>	<u>1SE</u>	<u>Gooding</u>	

Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>75</u>	<u>1SE</u>	<u>29</u>													<u>33.8</u>	<u>37.1</u>	<u>28.9</u>	<u>24.7</u>	<u>126.5</u>
		<u>28</u>									<u>1.4</u>	<u>2.1</u>							<u>3.5</u>
																			<u>130</u>
															MICROFILMED				
															APR 11 2001				

PART 1

i. General Information:

a. Description of diversion system Well, motor, pump, open discharge to pond, canal water comes into the pond also. A Re-lift pump pressurizes the sprinklers.

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. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

d. Remarks:

Well was pumping at a higher rate than allowed, so a smaller pump and new bowls have been installed to comply with the consent order of last July.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____

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PART 2

TRANS NO. 68811

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-10522

STAGE: DECREED

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
IRRIGATION	04/01 to 10/31	0.74 CFS	148.0 AF

SOURCE

GROUNDWATER

Priority: 08/01/1961

LOCATION OF POINT(S) OF DIVERSION:NENESE , Sec. 29, Township 07S, Range 15E
GOODING CountyPLACE OF USE:

IRRIGATION

NE				NW				SW				SE																
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	SUM
07S	15E	29	:																									
												12	25											37.0				
																								TOTAL ACRES	37.0			

CONDITIONS/REMARKS:

- USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE CANAL CO. LTD.

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

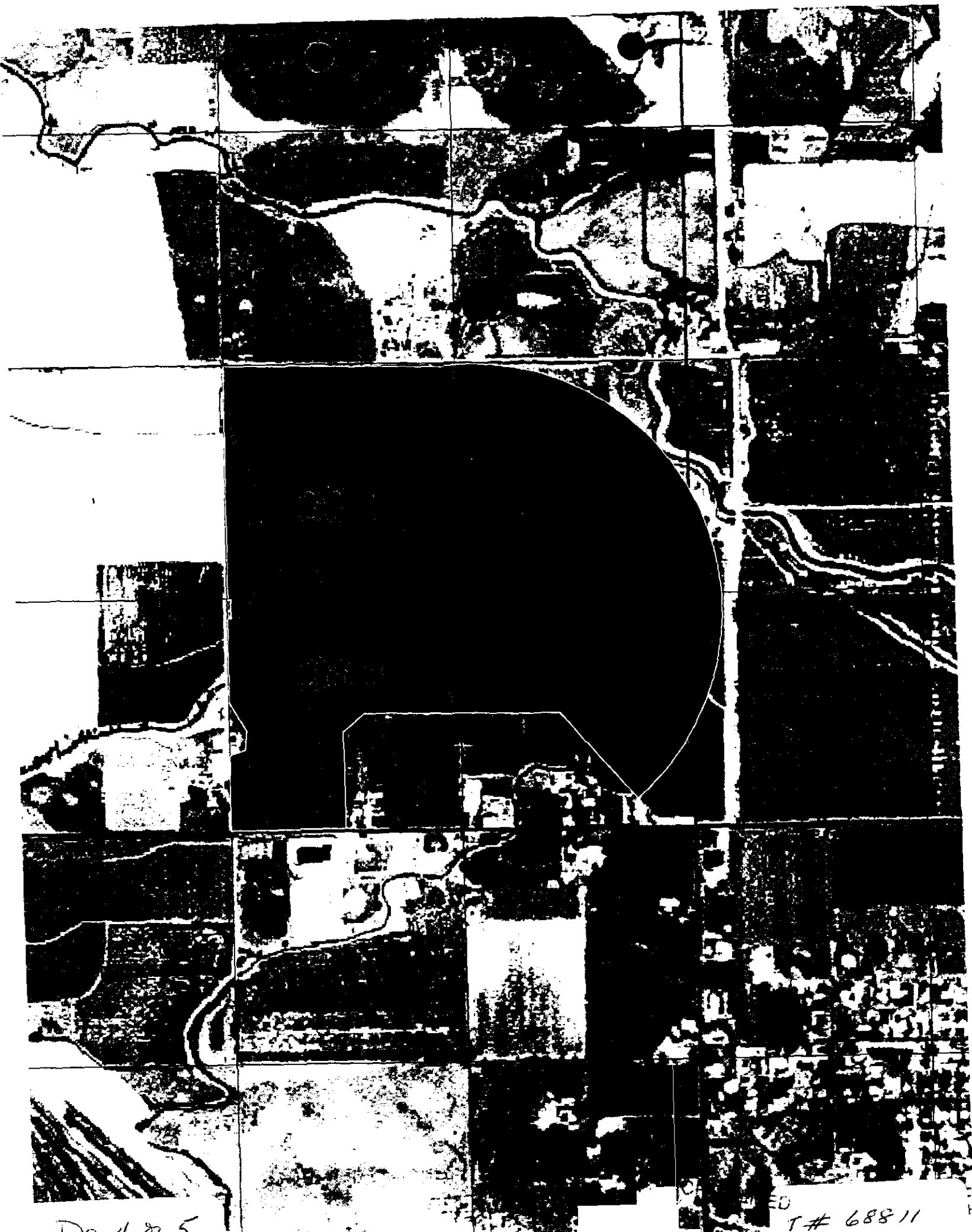
To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe:

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

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APR 11 2007



Pg 4 of 5

ED
T# 68811

PART 3

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:

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

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 18th day of October, 10 2000.

[Signature]
(Signature of Applicant)

[Signature]
(Notary Public)

My commission expires 10-25-2006

FOR DEPARTMENT USE ONLY

Transfer contains 5 pages and 1 attachmentsReceived by [Signature] Date 10-18-00 Protest filed by NonePrelim. check by [Signature] Fee \$250.5023443Receipted by [Signature] Date 10-18-00Published in Gooding County Leader Copies of protest forwarded by _____Pub. dates 1/18 + 1/25/01 Hearing held by _____ Date _____Watermaster recommendation requested on N/A Recommended for ☒ approval ☐ denial_____ rec'd. by [Signature]

Copy of transfer sent to lien holder _____

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APR 11 2001

COPY

Attachment A

G-20125

REAL PROPERTY MORTGAGE

THE MORTGAGORS, BOB J. MUFFLEY and DAN A. SUHR and KEITH W. LIERMAN, and spouses, mortgage to COINER & LONG, INC., an Idaho corporation, the Mortgagee, that real property in Gooding County, Idaho, described on Exhibit "A" attached hereto and made a part hereof.

TOGETHER with all hereafter acquired right, title and interest of the Mortgagors therein, and the possession, rents, issues, profits and income thereof, and all easements, appurtenances, tenements, hereditaments, water and water rights, ditches and ditch rights and privileges now or thereafter appurtenant or belonging to or used in connection with the premises or any part thereof.

TO SECURE: Payment of the principal sum of \$108,500.00 with interest with a final payment on November 1, 2008, for all principal and interest then unpaid, all as set forth in Mortgagors' note of even date. This is a purchase money mortgage to secure the balance due on the hereinabove described premises sold and conveyed by Mortgagee to Mortgagors.

Mortgagors covenant and agree: To defend this mortgage as a first real mortgage lien upon the above described premises against the claims, lawful or otherwise, or all persons whatsoever; to pay prior to delinquency all taxes, liens, assessments and governmental levies against the mortgaged premises; and to farm the premises in a good farmerlike manner.

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APR 11 2007

1 If Mortgagors fail to pay taxes, liens, assessments or
2 governmental levies against the mortgaged premises in the manner
3 above provided, or to pay encumbrances against the premises,
4 Mortgagee may at its option pay the same; all sums expended by
5 Mortgagee for any such purposes, together with interest thereon at
6 12% per annum from date of payment, shall at once be due and payable
7 to Mortgagee from the Mortgagors and be a lien upon said premises
8 and be secured by this mortgage.

9 Any money collected by Mortgagors on any insurance policy
10 may, at their option, be devoted to the repair or reproduction of
11 the subject of the insurance, or applied on the indebtedness hereby
12 secured.

13 Time is material and of the essence hereof, and if default
14 be made by Mortgagors in the payment of the debt hereby secured, or
15 interest, or in the performance of any of their covenants herein,
16 or in the event of a sale or transfer of the mortgaged premises by
17 the Mortgagors, then in any of said cases, the balance of unpaid
18 principal, with accrued interest, and all of indebtedness hereby
19 secured, shall at Mortgagee's election, become immediately due, and
20 this mortgage may be foreclosed; provided that, in the case of any
21 such default the Mortgagee shall give the Mortgagor thirty (30) days
22 written notice of such default and the Mortgagor shall have the
23 right to cure the default within said thirty (30) days. If the
24 default is not cured within said thirty (30) days the Mortgage may
25 be foreclosed without further notice to the Mortgagor. Said written
26 notice shall be effective upon deposit of the same in the United

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1 States mail, postage prepaid, certified and return receipt
2 requested, addressed to the last known address of the Mortgagee.
3 In any suit to foreclose this mortgage, or any suit or proceedings
4 which Mortgagee may defend to protect the lien hereof, Mortgagors
5 agree to pay a reasonable sum as attorney's fees, and further agree
6 to pay the reasonable costs of searching the records and abstracting
7 the same as may necessarily be incurred in foreclosing this mortgage
8 or in defending the same, which sums shall be secured hereby and
9 included in the decree of foreclosure.

10 Mortgagee's omission to enforce its rights upon a breach
11 of Mortgagors of the terms of this mortgage or of the note secured
12 thereby, or on Mortgagors' default in the performance of any of
13 their covenants herein, shall not require the Mortgagee to give
14 notice to Mortgagors that it will thereafter demand strict
15 performance or be a waiver of the power to enforce such rights
16 immediately upon the occurrence of any subsequent breach or default.

17 IN WITNESS WHEREOF, The Mortgagors have executed this
18 instrument this 1st day of November, 1993.

19
20 Mary Muffley
21 MARY MUFFLEY

Bob J. Muffley
BOB J. MUFFLEY

22
23 Donna Dee Suhr
DONNA DEE SUHR

Dana A. Suhr
DANA A. SUHR

24
25 Veronica Lierman
26 VERONICA LIERMAN

Keith W. Lierman
KEITH W. LIERMAN

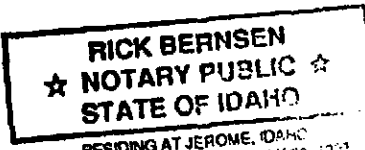
MICROFILMED

1 STATE OF IDAHO)
2) ss.
County of Jerome)

3 On this 1st day of November, 1993, before me, the
4 undersigned, a Notary Public in and for said County and State,
5 personally appeared BOB J. MUFFLEY and V. MARI MUFFLEY, known to
me to be the persons whose names are subscribed to the within
instrument, and acknowledged to me that they executed the same.

6 IN WITNESS WHEREOF, I have hereunto set my hand and
7 affixed my official seal the day and year in this certificate
first above written.

8
9 
NOTARY PUBLIC
Residing at Jerome
My Commission Expires 7-30-97

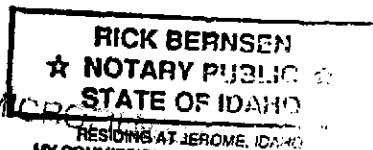
10
11
12 
13

14 STATE OF IDAHO)
15) ss.
County of Jerome)

16 On this 1st day of November, 1993, before me, the
17 undersigned, a Notary Public in and for said County and State,
18 personally appeared KEITH W. LIERMAN and VERONICA LIERMAN,
known to me to be the persons whose names are subscribed to the
within instrument, and acknowledged to me that they executed the
same.

19 IN WITNESS WHEREOF, I have hereunto set my hand and
20 affixed my official seal the day and year in this certificate
first above written.

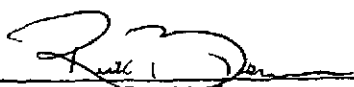
21
22 
NOTARY PUBLIC
Residing at Jerome
My Commission Expires 7-30-97

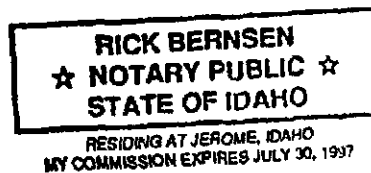
23
24
25 
26

1 STATE OF IDAHO)
2) ss.
3 COUNTY OF JEROME)

4 On this 1st day of November, 1993, before me, the
5 undersigned, a Notary Public in and for said County and State,
6 personally appeared KEITH W. LIERMAN and VERONICA LIERMAN,
7 known to me to be the persons whose names are subscribed to
8 the within instrument, and acknowledged to me that they executed
9 the same.

10 IN WITNESS WHEREOF, I have hereunto set my hand and
11 affixed my official seal the day and year in this certificate
12 above written.

13 
14 NOTARY PUBLIC
15 Residing at Jerome
16 My Commission Expires: 7-30-97



1 EXHIBIT "A" TO REAL PROPERTY MORTGAGE FROM BOB J. MUFFLEY AND
2 DAN SUHR & KEITH LIERMAN, dba K. & D. LIMITED, MORTGAGORS TO
3 COINER & LONG, INC., MORTGAGEE

4 The following described real property in Gooding County,
5 Idaho:

6 Lots 1 and 2 of Hastings Acreage Tract, Gooding County,
7 Idaho, as the same is platted in the official plat
8 thereof, now of record in the office of the Recorder of
said County, EXCEPTING THEREFROM the following described
parcel of land:

9 Beginning at the Section corner common to Sections 29,
10 28, 32 and 33, Township 7 South, Range 15, East Boise
Meridian;

11 Thence South 89° 49' East along the Section line common
12 to Sections 28 and 33 for a distance of 202.8 feet;
13 Thence North 0° 03' West for a distance of 55.0 feet;
14 Thence North 88° 30' West for a distance of 443.3 feet;
15 Thence North 30° 55' West for a distance of 139.3 feet;
16 Thence North 80° 25' West for a distance of 120.0 feet;
17 Thence North 56° 15' West for a distance of 277.7 feet;
18 Thence South 0° 09' East for a distance of 357.6 feet to
19 the Section line common to Sections 29 and 33;
20 Thence along said Section line, South 89° 49' East for a
21 distance of 660.3 feet to THE POINT OF BEGINNING.

22 Lots 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17 and 18
23 of Hastings Acreage Tract, Gooding County, Idaho, as the
24 same is platted in the official plat thereof, now of
25 record in the office of the Recorder of said County.
26

154666

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of Land Title & Escrow Inc.

26 min. past 3 o'clock P m. this 2
of Nov, 1993 18.00

JOHN A. MYERS Recorder

By Debra Sides Deputy
MICROFILMED

APR 11 2001

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re, SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-10522

1997 DEC 29 AM 10:35

DISTRICT COURT - SRBA
TWIN FALLS, IDAHO

NAME & ADDRESS: COINER LONG CORP
C/O FIRST SECURITY BANK OF ID
PO BOX 7
TWIN FALLS ID 83303

SOURCE: GROUNDWATER

QUANTITY: 0.74 CFS
148.0 AFY

PRIORITY DATE: 08/01/1961

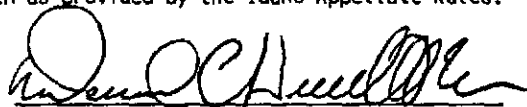
POINT OF DIVERSION: T07S R15E S29 NENESE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	0.74 CFS 148.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T07S R15E S29	NESE 12 NWSE 25
	37 ACRES TOTAL	

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

MICROFILMED WR
APR 11 2000

MICROFILMED AW

SEP 11 2000



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

April 11, 2001

MLS FARMS
C/O BOB MUFFLEY
122 5TH AVE W
GOODING ID 83330

RE: Water Right 36-10522 (Transfer 68811)

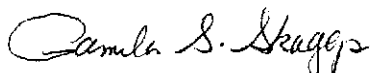
Dear Water Right Holder(s):

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 68811). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact the department if you have questions.

Sincerely,


for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

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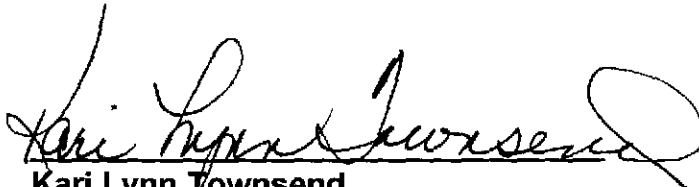
APR 11 2001

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of **April, 2001** I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

RE: WATER RIGHTS 36-10522 (Transfer 68811)

**MLA FARMS
C/O BOB MUFFLEY
122 5TH AVE W
GOODING ID 83330**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
APR 11 2001**

**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 (IDAPA Rules of Procedure 302 and 303).

APR 11 2006
MICROFILMED

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
APR 17 2001

RECEIVED

FEB 27 2001

DEPARTMENT OF WATER RESOURCES

MEMO

FROM: Allen Merritt *Ab*
TO: Transfer File No. 68811
In the name of: MLS Farms
Water Right(s): 36-10522

DATE: February 26, 2001

SUBJECT: Review and Recommendation

This transfer was precipitated by an NOV issued since the right was being over pumped on rate and used in an unrecorded PPU. See letters in the file regarding NOV.

The transfer was processed without protest.

GIS polygon for PPU has been created in region but not moved to SDE layer. The shape is on South447 E:/Gis Stuff/Allen's Work Area/B36/mlsfarm.shp

Recommendation

I recommend that this transfer be approved subject to the following conditions:

- Limit use to 37 acres within 130 acre PPU. Limit annual use to 148 afa.
- Report use through ESPA West Measurement District or North Snake Plain Ground Water District as required.
- Maintain measuring device with totalizing meter on well.
- Use surface water (canal shares) to maximum extent possible before use of this ground water.

****Forward copy of approval to Tim Luke for tracking with NOV and Measurement District.**

Data entry by S. Keen on 4-10-2001.

MICROFILMED

APR 11 2001

IDWR TRANSFER ANALYSIS SHEET

APPLICANT WZS Farms TRANSFER NO. 68811

1. Right number(s) 36-10522

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

3. Purpose of transfer ☐ Change P/D ☐ Add P/D ☐ Change P/U
☐ Change N/U ☐ Change Source ☐ Split Right
☒ Other: Create PPU

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

Comments: Recommend approval. Transfer legalizes existing condition.

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

☐ Also see attached memo for more analysis information

- a. ☒ All of right
- b. ☐ Part of right (NOTE: Part B should be filled in only if part of right is owned by the applicant)
- c. ☒ Description of point(s) of diversion
- d. ☒ Description of place of use
- e. ☒ Map showing P/D & P/U after transfer
- f. ☒ Correct notarized signature and \$100 fee
- g. ☒ Proof of ownership of right &/or land from which water is transferred
- h. ☒ Expansion in use of right - Comments: None requested

i. ☒ Existing rights from same source, on land water is being transferred to; right number(s): _____

NSCC shares

j. ☒ SRBA claim(s) - Comments (NOTE! Approved transfer amends SRBA claim; differences between existing water right and SRBA claim? any ownership or other outstanding issues? Explain) _____

N/A - already decreed

k. ☒ Comment letters ☒ Yes ☐ No
If yes ☒ Water District #
☒ Lienholder, others, see #2 below for name and address

INITIAL ALLOCATION REVIEW BY J. G. Johnston
SRBA SUPERVISOR REVIEW BY _____
PUBLICATION REVIEW BY _____

DATE 12-27-00
DATE _____
DATE _____

1. Legal Notice electronically sent to DWR03::VAULT ☐ Yes

2. COMMENT LETTERS Copy of Pg 1 to AJ ☒ Yes 1/8/01

Watermaster recommendation requested on _____, Received on _____

Other comments letters - send to the following name(s) & address(es): _____

3. Transfer published correctly? ☒ Yes ☐ No

4. Affidavit of publication received? ☒ Yes ☐ No

5. Protests received? ☐ Yes ☒ No; Acknowledgement sent? ☐ Yes

6. Copies made for Region file (see attached supplemental page)? ☐ Yes

RECOMMENDED ACTION

1. ☒ Approve

2. ☐ Deny due to _____

3. Conditions (special conditions in Water Districts) _____

Also see attached memo for recommendation dated: 2/26/01

4. By AB

Date 2/26/01

MLS Farms
A Joint Venture
122 5th Ave. West
Gooding, Idaho 83330
Ph: 208-934-4781 FAX: 208-934-5648

RECEIVED
JAN 30 2001
Department of Water Resources
Southern Region

1/29/2001

James E. Stanton, Sr. Water Resource Agent
Idaho Dept. Of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, Idaho 83301-3380

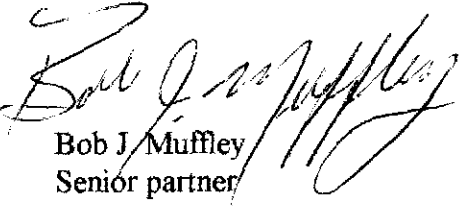
RE: Application for transfer #68811

Dear Mr. Stanton:

Per your request for information of 12/28/01, I have enclosed copies of letters that were sent to you from Shelley Ross of First Security Bank and Dan Suhr and Keith Lierman of K-D Limited. Also attached is the plat of the Hastings Acreage Tract as described in the real estate property mortgage which is our proof of ownership.

I'm sorry it took so long to get everything to you. I had a hard time getting everyone together on what was being required. I hope this information complies with your request, but if you need more information or have any questions concerning the attached documents, let me know.

Sincerely


Bob J. Muffley
Senior partner

MICROFILMED

APR 11 2001



RECEIVED

JAN 30 2001

Department of Water Resources
Southern Region

01/10/2001

State of Idaho
Department of Water Resources
1341 Fillmore St. #200
Twin Falls, ID 83301-3380

RE: Coiner-Long, Inc.

To whom it may concern:

As Agent for the Coiner-Long Agency under Agreement, we are in agreement with the proposed changes for the property to which the water rights being changed and agree that they are appurtenant to the described land on Water Right #36-10522, Transfer #66811.

First Security Bank, N.A.
Agent for the Coiner-Long Agency

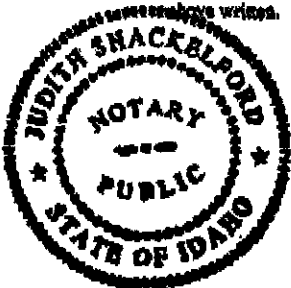
By: Shelley Ross
Shelley Ross
Trust Administrator
Trust Real Estate

Date: 1/10/00

STATE OF IDAHO)
COUNTY OF Ada) ss.

On this 9th day of January in the year 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Shelley Ross known or identified to me as a Trust Administrator for First Security Bank and acting as Agent of the Coiner-Long Agency and acknowledged to me that they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.



Judith Shackelford
Notary Public for Idaho
Residing at Boise, ID
My Commission Expires 7-12-01

First Security Bank, N.A. The Private Client Group 119 North 9th Street P.O. Box 2618 Boise, Idaho 83701
Telephone 208-393-2020

A financial services company of First Security Corporation

MICROFILMED

APR 1 1991 **TOTAL PAGE. 02 **

1-29-01

State of Idaho
Department of Water Resources
1341 Fillmore St. #200
Twin Falls, ID 83301-3380

To Whom It May Concern:

The partners of K-D Limited do agree with the proposed change for the property to which the water rights are being changed and agree that they are appurtenant to the described land on Water Right #36-10522, Transfer #66811.


Keith W. Lierman

Date: 1-29-01

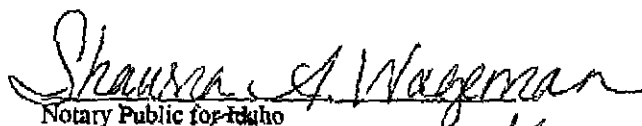

Daniel A. Suhr

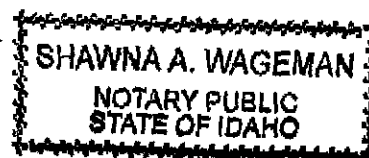
Date: 1-29-01

STATE OF IDAHO)
County of Jerome)ss

On this 29th of January in the year 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Keith W. Lierman & Daniel A. Suhr as partners of K-D Limited.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Jerome, Id
Commission Expires: 03/07/03



MICROFILMED

APR 11 2001

LAND TITLE AND ESCROW, INC.

COUNTY

SEC.

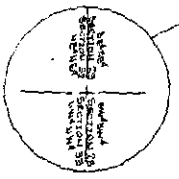
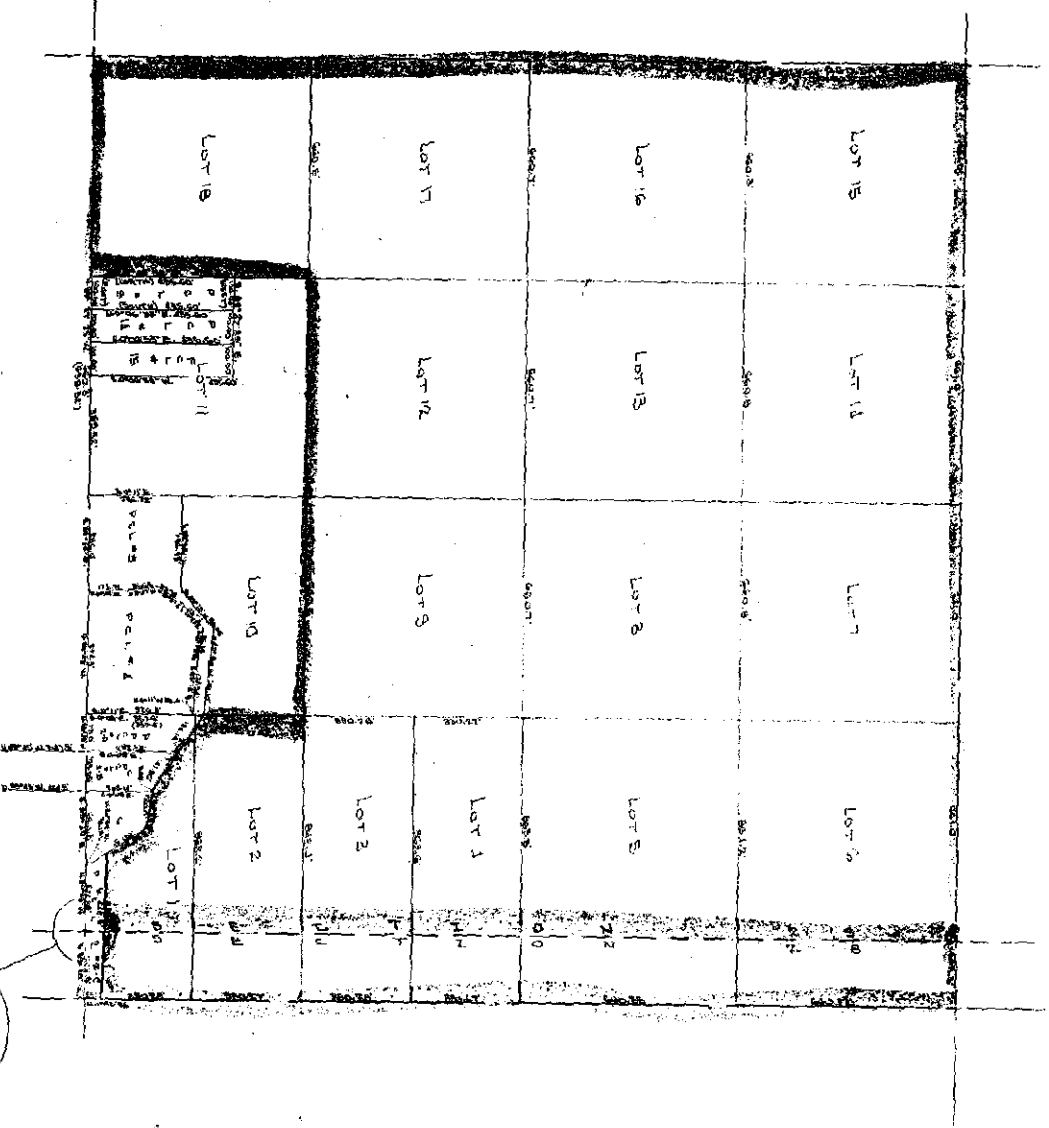
TWP.

S

RGE

ESM.

HEATING EXCHANGE TRACTS



MICROFILMED
APR 11 2001

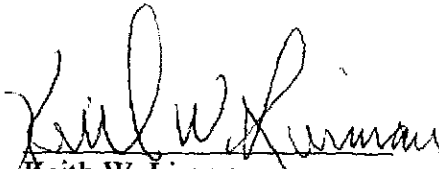
1-29-01

State of Idaho
Department of Water Resources
1341 Fillmore St. #200
Twin Falls, ID 83301-3380

RECEIVED
JAN 30 2001
Department of Water Resources
Southern Region

To Whom It May Concern:

The partners of K-D Limited do agree with the proposed change for the property to which the water rights are being changed and agree that they are appurtenant to the described land on Water Right #36-10522, Transfer #66811. 68811


Keith W. Lierman

Date: 1-29-01

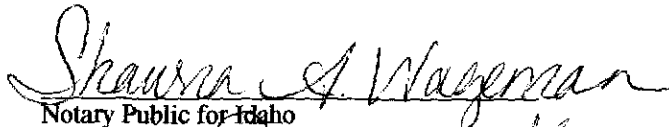

Daniel A. Suhr

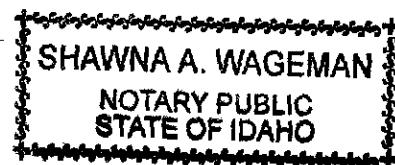
Date: 1-29-01

STATE OF IDAHO)
County of Jerome)ss

On this 29th of January in the year 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Keith W. Lierman & Daniel A. Suhr as partners of K-D Limited.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Jerome, Id
Commission Expires: 03/07/03



MICROFILMED

APR 11 2001



RECEIVED

JAN 16 2001

Department of Water Resources
Southern Region

TRANSMITTAL MEMORANDUM

TO: James Stanton

FROM: Shelley Ross - First Security Bank, Trust Real Estate

RE: Eveline Hillman Trust – Farm Sale

DATE: 1/10/01

[x] Enclosed is a letter in reference to the MLS Farms Water Transfer #66811.

[x] For your information and/or file.

[X] In accordance with your request.

☐ For your approval.

☐ For your signature.

☐ As we discussed.

[x] Please call me at (208)393-2051 if you have any questions or need additional information.

Shelley Ross

MICROFILMED

APR 11 2001



RECEIVED
JAN 16 2001
Department of Water Resources
Southern Region

01/10/2001

State of Idaho
Department of Water Resources
1341 Fillmore St. #200
Twin Falls, ID 83301-3380

RE: Coiner-Long, Inc.

To whom it may concern:

As Agent for the Coiner-Long Agency under Agreement, we are in agreement with the proposed changes for the property to which the water rights being changed and agree that they are appurtenant to the described land on Water Right #36-10522, Transfer #66811.

First Security Bank, N.A.
Agent for the Coiner-Long Agency

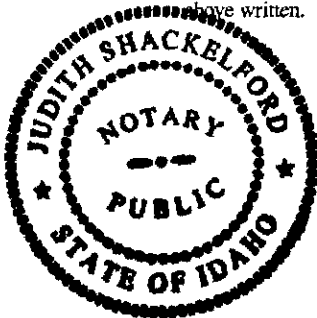
By: Shelley Ross
Shelley Ross
Trust Administrator
Trust Real Estate

Date: 1/10/00

STATE OF IDAHO)
COUNTY OF Ada) ss.

On this 9th day of January in the year 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Shelley Ross known or identified to me as a Trust Administrator for First Security Bank and acting as Agent of the Coiner-Long Agency and acknowledged to me that they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official, seal the day and year in this certificate first above written.



Judith Shackelford
Notary Public for Idaho
Residing at Boise, ID
My Commission Expires 7/28/06

MICROFILMED

APR 11 2001

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

RECEIVED

JAN 30 2001

Department of Water Resources
Southern Region

Norma DeVoe, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in supplement; that the date of the first publication of said advertisement was on the 18th day of January, 192001 and that date of the last publication was on the 25th day of

January, 192001

On this 25th day of January in the year of 2001, before me, a Notary Public, personally appeared

Norma DeVoe, 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.

Shelley Sturgeon
Notary Public for Idaho

SHELLEY STURGEON

Notary Public
State of Idaho

My commission expires: 12/3/05

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2 X

Lines tabular at _____ 8.0¢/Pica

309.38 Lines straight at 21.6¢ 7.0¢/Pica

309.38 Subsequent lines at 18.5¢ 6.0¢/Pica

Affidavit Fee: 2.50

TOTAL COST 42.72

Proposed Change - M.L.S. Farms
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

COPY OF NOTICE

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

MLS FARMS, c/o Bob Muffley, 122 5th Ave. West, GOODING ID 83330 has filed Application No. 68811 for changes to the following ground water rights within GOODING County:

WR#: 36-10522

Amt: 0.74 cfs

Priority: 08/01/1961

POD: NESE, S29

POU: 37 acres within N1/2SE, S29

The applicants propose to create a 130 acre permissible place of use within SE1/4, S29 and W1/2, S28, all T07S, R15E; limited to 37 acres in any one season. Any protest against the proposed change must be filed with the Department of Water Resources, Southern, 1341 Fillmore St, Suite 200, Twin Falls ID 83301 together with a protest fee of \$25.00 on or before February 5, 2001 to be considered by the Department in its decision to grant or deny any part of the application. The protestant must also send a copy of the protest to the applicant.

/s/ Karl J. Dreher, Director

PUB: 1/18 - 1/25 G34347

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PUBLICATION RATES

(Idaho Code, Rev. Statutes 1996)

7-8 pt. per line tabular 8.0¢/Pica

7-8 pt. per line straight 7.0¢/Pica

7-8 pt. per line successive
insertions 6.0¢/Pica

No. 7655

34347

MICROFILMED

APR 11 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

01/04/2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MAGIC VALLEY PUBLISHING
ATTN: **Gooding County Leader**
PO BOX 468
JEROME ID 83338

RE: Transfer No 68811
Water Right No(s) 36-10522

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 February 5, 2001. Your cooperation is appreciated.

Sincerely,

Mary A. Baldwin,
Administrative Assistant

MICROFILMED
APR 11 2001

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

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KARL J DREHER, Director

Published in the Gooding County Leader on 1/18 & 1/25/01

MICROFILMED

APR 11 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

12/28/2000

MLS FARMS
C/O BOB MUFFLEY
122 5TH AVE W
GOODING ID 83330

RE: Application for Transfer #68811

Dear Mr. Muffley;

The Department of Water Resources has received your water right transfer application. The initial agent review has been completed, and the application has been forwarded to our senior secretary for advertising. We still need additional information, however, which is described below.

A notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes FOR THE PROPERTY TO WHICH THE WATER RIGHT(S) BEING CHANGED ARE CURRENTLY APPURTENANT.

A notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes FOR THE PROPERTY TO WHICH YOU ARE PROPOSING TO MOVE YOUR WATER RIGHT(S).

A plat of the Hastings Acreage Tract as described in the real property mortgage that you provided as proof of ownership.

Since the mortgage document shows K & D Limited has purchased this property, we need a Document showing the authority of MLS Farms to make this water transfer.

Please feel free to contact this office if you have any questions.

Sincerely,

James E. Stanton
Sr. Water Resource Agent
>

MICROFILMED

APR 11 2001



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

November 29, 2000

MLS Farms
C/O Bob Muffley
122 5th Ave W
Gooding, ID 83330

RECEIVED

DEC 07 2000

Department of Water Resources
Southern Region

Re: Agreement and Consent Order – Water Right 36-10522

Dear Mr. Muffley,

I received your correspondence dated November 17, 2000 regarding your concern about operating your well in October and possibly being out of compliance with the Agreement and Consent Order for water right 36-10522. I appreciate your honesty and informing us of this situation.

I have no plans to pursue any fine or other enforcement action since you have revealed this matter directly to us. The consent order did allow use of the well under limited conditions, including limiting the diversion rate to 0.74 cfs and use on the 37 acres described under the right. It is possible that the use was actually in compliance since the pump had been modified to limit discharge to 0.74 cfs. We likely would have approved testing of the well anyway had you known ahead of time and informed us.

Our Twin Falls office advised me today that your transfer application was filed at that office on October 18, 2000. That office is currently reviewing the transfer and preparing it for legal notice. Assuming no protests are made, I suspect the transfer may be finalized sometime in the next one to two months and prior to the ensuing irrigation season.

Again, thank you for your candor and continued cooperation in this matter.

Respectfully,

Tim Luke
Water Allocations

Cc: IDWR Southern Region

MICROFILMED

APR 11 2001

08811

MLS Farms, Joint Venture

% Bob J. Muffley

122 5th Ave. West

Gooding, Idaho 83330

RECEIVED

NOV 29 2000

Department of Water Resources

November 17, 2000

Tim Luke, Water Allocations
Idaho Dept. Of Water Resources
P.O. Box 83720,
Boise, Idaho 83720-0098

RECEIVED

DEC 07 2000

Department of Water Resources
Southern Region

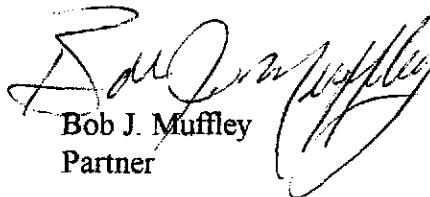
RE: Follow up on Agreement and Consent order - Water Right 36-10522

Dear Mr. Luke:

Per our agreement and consent order which was amended on July 11, 2000, my partners and I applied for a water right transfer through your Twin Falls office. To my knowledge, however, the transfer has not yet been approved. I'm afraid that my two partners jumped the gun by going ahead with the changing of the pump and bowls to allow for a diversion of no more the 0.74 cfs. This, in itself, is not a problem, but when the well man made the change he kicked on the pump to make sure everything was working properly. His act puts us out of compliance with the cease and desist order issued by you on June 12, 2000. I was unaware that this was happening or I would have told them to hold off until the transfer had been approved. We may have spent a lot of money on the well for nothing and opened ourselves up for a fine by your agency.

Please let me know if this act will cause a fine to be imposed. The pump was kicked on some time in October.

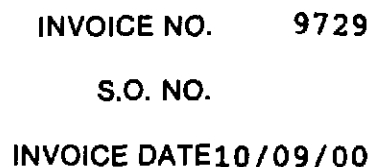
Sincerely


Bob J. Muffley
Partner

MICROFILMED

APR 11 2001

88811



S O L D T O	MLS FARMS -DAN SUHR	S H I P T O	
	167 W 500 S		FOR: 50 HP WESTERN S/N 14169
	JEROME ID 83338		REBOWL WELL PUMP FOR 350 GPM@176'

Resale No.

DATE _____

QUAN.	SIZE OR SYMBOL	DESCRIPTION	UNIT PRICE	AMOUNT
1	9RCLC	4 STG BOWL ASSY		2,857.00
1	6"	TN CONE STRAINER		63.00
3	8"X20'	T & C COLUMN PIPE (GOOD USED)	185.00	555.00
1	2"X1'2"X2"	TOP TUBE		45.00
1		MODIFIED VETILINE STRETCH ASSY		295.00
1	5 QT	OIL POT & KIT		100.00
1	1-1/4"X4'	1-1/2"X1" M.D. SHAFT 12-TPI		104.00
1	1"X12-TPI	ADJ NUT		20.00
1	25 HP	USED/RECOND MOTOR (1 YEAR WARRANTY LESS TRADE FOR 50 HP MOTOR)		-0-
16	HRS	FIELD LABOR (RIG) PULL/SET PUMP	115.00	1,840.00
		MICROFILMED		
		APR 11 2001		
			NET	5,879.00
				68811



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

November 29, 2000

MLS Farms
C/O Bob Muffley
122 5th Ave W
Gooding, ID 83330

Re: Agreement and Consent Order – Water Right 36-10522

Dear Mr. Muffley,

I received your correspondence dated November 17, 2000 regarding your concern about operating your well in October and possibly being out of compliance with the Agreement and Consent Order for water right 36-10522. I appreciate your honesty and informing us of this situation.

I have no plans to pursue any fine or other enforcement action since you have revealed this matter directly to us. The consent order did allow use of the well under limited conditions, including limiting the diversion rate to 0.74 cfs and use on the 37 acres described under the right. It is possible that the use was actually in compliance since the pump had been modified to limit discharge to 0.74 cfs. We likely would have approved testing of the well anyway had you known ahead of time and informed us.

Our Twin Falls office advised me today that your transfer application was filed at that office on October 18, 2000. That office is currently reviewing the transfer and preparing it for legal notice. Assuming no protests are made, I suspect the transfer may be finalized sometime in the next one to two months and prior to the ensuing irrigation season.

Again, thank you for your candor and continued cooperation in this matter.

Respectfully,

Tim Luke
Water Allocations

Cc: IDWR Southern Region

RECORDED

APR 17 2001

BEFORE THE DEPARTMENT OF WATER RESOURCES

**OF THE
STATE OF IDAHO**

RECEIVED

JUL 17 2000

Department of Water Resources

IN THE MATTER OF DIVERSION OF)
WATER BY MLS FARMS NOT IN)
CONFORMANCE WITH VALID)
WATER RIGHTS)
AGREEMENT AND
CONSENT ORDER

The Director of the Department of Water Resources (department), being charged with the duty of enforcing certain statutes of the state of Idaho and the rules of the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to appropriation and distribution of water, hereby enters into this Agreement and Consent Order with MLS Farms (herein referred as MLS).

NOW, THEREFORE, following a compliance conference and before the taking of any testimony herein, and without hearing or contested administrative adjudication of any issue of fact or law, and upon consent of the parties, it is HEREBY STIPULATED AS FOLLOWS:

FINDINGS

1. On June 9, 2000, the department issued a Notice of Violation and Cease and Desist Order, pursuant to the provisions of Section 42-351 and Section 42-1701B, Idaho Code, ordering MLS to cease diversion of ground water for application to lands not in conformance with water right 36-10522.
2. That the findings of fact and conclusions of law contained in the Notice of Violation and Cease and Desist Order are incorporated herein by reference.
3. That a compliance conference, pursuant to Section 42-1701B, Idaho Code, was held on June 26, 2000, at Twin Falls, Idaho. The department and MLS desire to remedy the violations of Idaho water law alleged in the Notice of Violation through compliance with the terms and conditions of this Agreement and Consent Order which is entered into in accordance with the provisions of Section 42-1701B, Idaho Code.

MICROFILMED

SEP 17 2000

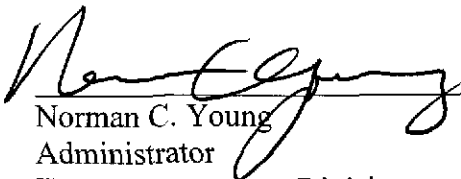
AGREEMENT AND ORDER

Based upon the foregoing findings and pursuant to agreement of the parties, the department orders as follows:

1. MLS will cease diversion of ground water under right 36-10522 to avoid the violations alleged in the Notice of Violation.
2. MLS may continue to divert ground water under this right only if the use is limited to the 37-acre place of use and 0.74 cfs rate of diversion authorized by right 36-10522. MLS shall advise the department regarding its intention to re-divert ground water in accordance with the authorized limits of right 36-10522
3. The department will suspend the \$1000 civil penalty contingent upon MLS ceasing further diversion of ground water under right 36-10522. The department will require payment of the \$1000 civil penalty if MLS fails to fully comply with the terms of the Agreement and Consent Order.
4. If MLS continues diversion of water not in conformance with a valid water right, then MLS will pay a civil penalty of three hundred dollars (\$300) per acre for each acre irrigated, in whole or in part, by the illegal use or diversion.
5. This agreement and consent order shall be effective immediately upon signing by both parties. Compliance with the Agreement and Consent Order by MLS shall preclude any civil enforcement action by the department for the violations alleged in the Notice of Violation.

DATED this 7TH day of July, 2000.

KARL J. DREHER
Director


Norman C. Young
Administrator
Water Management Division

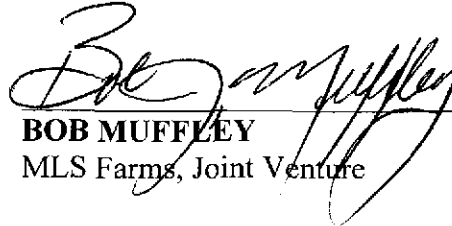
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SEP 11 2000

CONSENT

MLS Farms acknowledges in general the facts set forth and accepts fully the terms and conditions of this Agreement and Consent Order. These terms shall become effective upon execution by the parties. MLS Farms waives any right to contest this Agreement and Consent Order and consents to the issue hereof.

SIGNED this 14th day of July, 2000


BOB MUFFLEY
MLS Farms, Joint Venture

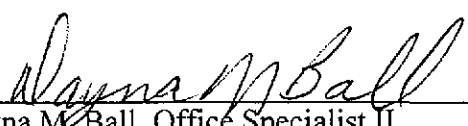
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SEP 11 2000

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 11th day of July, 2000, the attached correspondence was served upon the following individual by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

MLS Farms
C/O Bob Muffley
122 5th Ave W
Gooding Id 83330


Dayna M. Ball, Office Specialist II
Water Distribution Section

Copies of the correspondence and attachments were also mailed to:

Allen Merritt
IDWR, Southern Region

Shelley Ross
First Security Bank
PO Box 2618
Boise Id 83702
(phone 393-2051)

Jeff Martin, Hydrographer
North Snake Ground Water District
174 W 400 S
Jerome, Id 83338

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SEP 11 2000