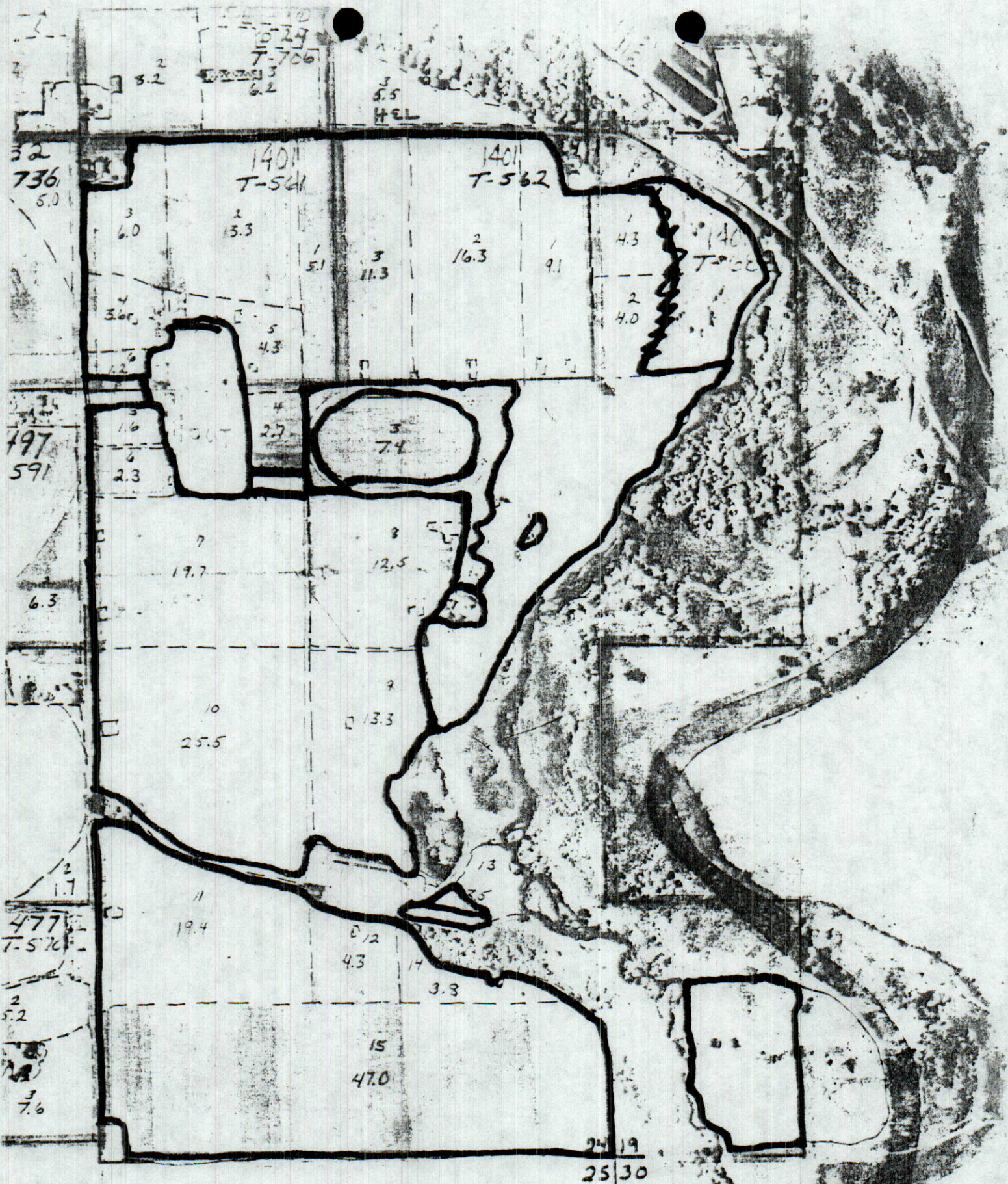
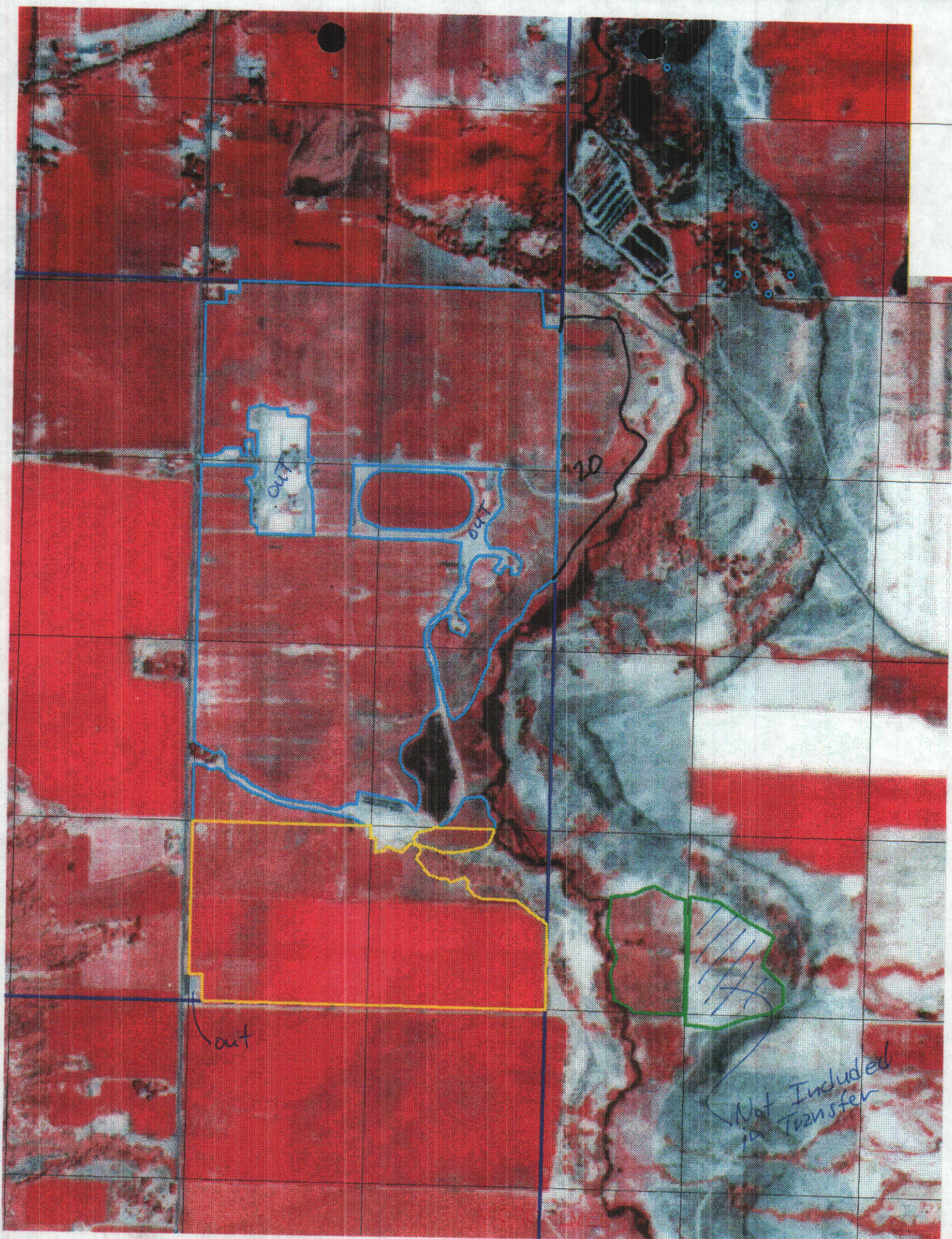


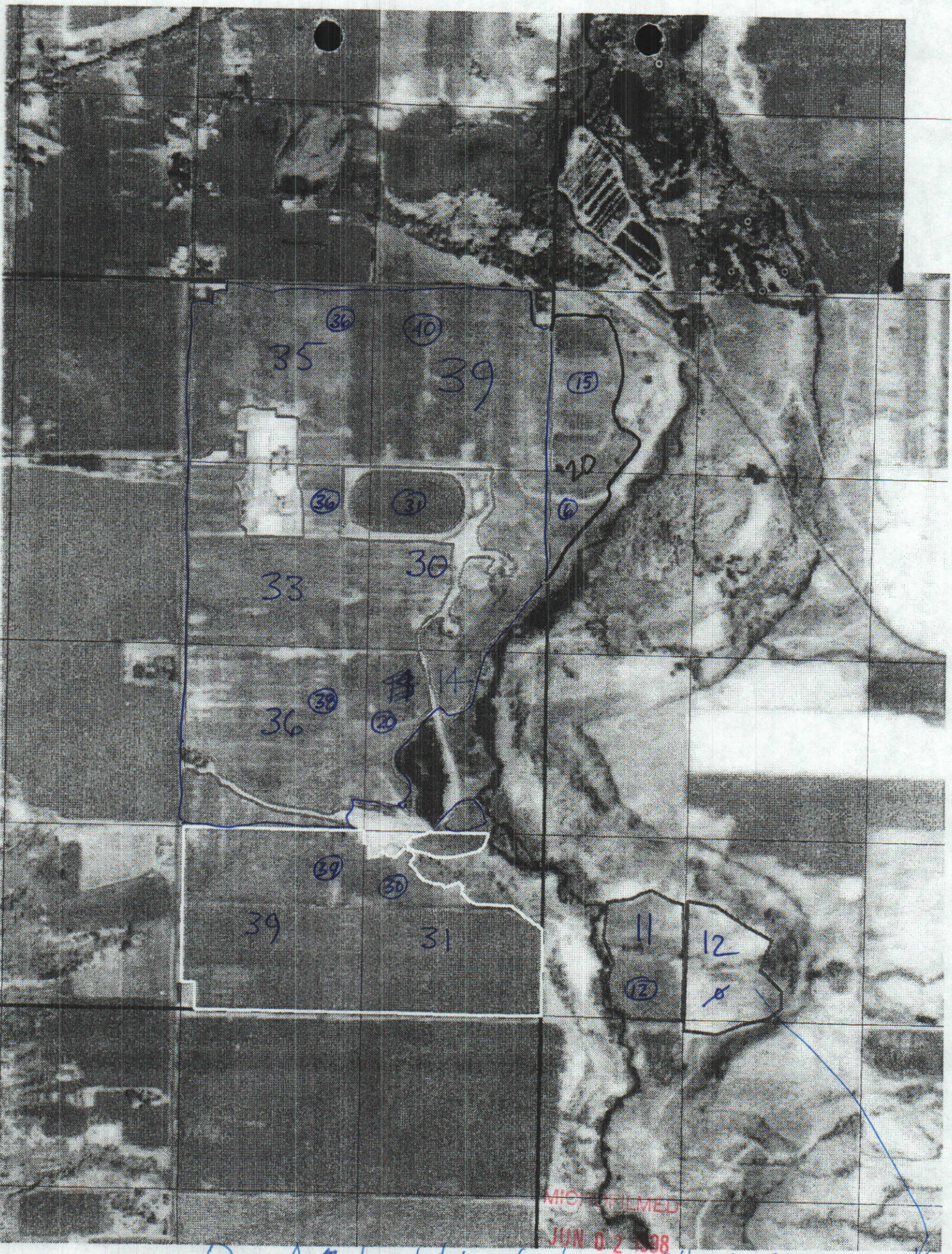


* Map from first
two applications

MICROFILMED
JUN 02 1998



JUN 02 1998



○ - As ~~is~~ diked & transferred

MICROFILMED
JUN 02 1998

Other is GIS number 288 not counting 12

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

Patty Nance, 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 a supplement; that the date of the first publication of said advertisement was on the 4th day of March, 1998,

and the date of the last publication was on the 11th day of March, 1998.

Patty Nance
Subscribed and sworn to before me this 18th day of March, 1998.
(SEAL)

Norma Doe
NOTARY PUBLIC

#19751/6746
GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2x

affidavit fee 2.25

Lines tabular at _____ 7¢/Pica
662.06 Lines straight at 39.72 6¢/Pica
662.06 Subsequent lines at 33.10 5¢/Pica

TOTAL COST 75.07

COPY OF NOTICE

(Paste Here)

Water Change T#5208
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept of Water Resources
BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT No. T# 5208

Notice is hereby given that the City of Hagerman, PO Box 158; HAGERMAN ID 83332 has applied to the Department of Water Resources for changes to a water right. The purpose of Transfer No. 5208 is to modify a water right which has become contaminated and unsuited for municipal use. The right is being exchanged for shares in the Big Springs Water Users Assoc.

PRESENTLY, Water Right No. 36-02465 (4.0 cfs) with a priority date of 01/18/1961 is diverted from Potter Springs tributary to Billingsley Creek within SESW, S19, T07S, R14E; Gooding County for municipal use within City limits and the vicinity of Hagerman, ID.

PROPOSED CHANGE

The use is proposed to be changed to Billingsley Creek Ranch property for: Fish propagation (4.0 cfs) and Recreation use (4.0 cfs) within NESE, S24, T07S, R13E in existing facilities from 1/1-12/31.

Irrigation (4.0 cfs) of 303 acres within parts of S24, T07S, R13E and parts of S19, T07S, R14E; Gooding County during the irrigation season.

Total diversion rate: 4.0 cfs

Change will modify combined use limits of other rights serving same purposes on Billingsley Creek Ranch.

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before March 23, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

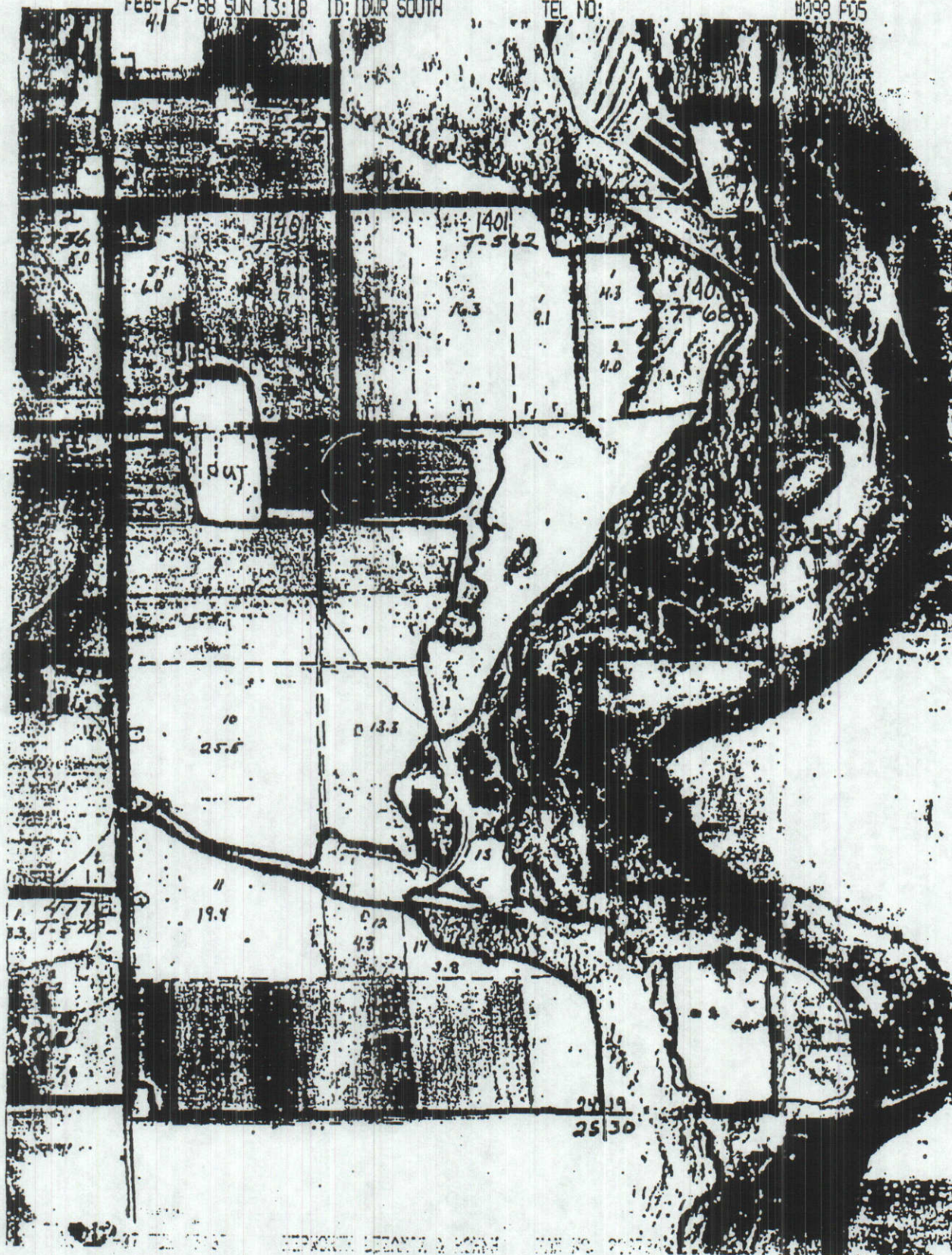
Published in the Gooding County Leader on 3/4 & 3/11/98.

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JUN 02 1998

FEB-12-'68 SUN 13:18 ID:IDWR SOUTH

TEL NO:

#098 F15



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JUN 02 1998

S E L	Water Right No.	Name Last, First	O W N	Priority Date	STG/ STS	Source	Use Desc	S Y S
—	36-02465	CITY OF HAGERMAN	C	01/18/1961	L/	SPRINGS	DOMEST MUNI	WR
—	X36-02465	CITY OF HAGERMAN	C	01/18/1961	D/	POTTER SPRINGS	IRR FISH REC	WR

(GOLD6=Print Profile Rpt For All Rights/Claims on Screen)
(Enter=Continue) (GOLD7=This Query) (GOLD8=Cancel) (Menu)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5208
WATER RIGHT NO. 36-02465

This is to certify that: **CITY OF HAGERMAN**
PO BOX 158
HAGERMAN ID 83332

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	4.00 CFS	1212.0 AF
FISH PROPAGATION	01/01 to 12/31	4.00 CFS	1460.0 AF
RECREATION	01/01 to 12/31	4.00 CFS	1460.0 AF
	Totals	4.00 CFS	1460.0 AF

SOURCE

POTTER SPRINGS

TRIBUTARY OF

BILLINGSLEY CREEK

Priority: 01/18/1961

LOCATION OF POINT(S) OF DIVERSION:

SESESW , Sec. 19, Township 07S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S	13E	19	NWNW 15	SWNW 6	SWSW 12	33
	24		NENE 40	NWNE 36	SWNE 36	
			SENE 31	NESE 20	NWSE 38	
			SWSE 39	SESE 30		270
				Total number of acres irrigated:		303

PLACE OF USE: FISH PROPAGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
07S	13E	24
		NESE

PLACE OF USE: RECREATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
07S	13E	24
		NESE

TRANSFER NO. 5208
WATER RIGHT NO. 36-02465

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
2. 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.
3. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dated this 8th day of May, 1998.


Chief, Water Allocation Bureau

Page 1 of 8Amended 2/26/98
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Transfer No. 5208

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MAR 26 1998

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Department of Water Resources
Southern Region

Department of Water Resources

Name of applicant City of Hagerman Phone 837-6636Post Office address P.O. Box 158, Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☒ Change period of use ☒ Other Change overlap conditions

2. Describe the reason for the proposed changes This right for municipal use from Potter Springs (36-02465) is being traded for shares in Big Springs Water Users Assoc. in order to avoid drinking water contamination problems & otherwise economize. (See attached Agreement to Exchange Water)

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-02465</u>	<u>1/18/1961</u>	<u>4.0</u>	<u>Irrigation</u>	<u>Irrigation Season</u>
		<u>4.0</u>	<u>Fish Prop.</u>	<u>1/1 to 12/31</u>
		<u>4.0</u>	<u>Recreation</u>	<u>1/1 to 12/31</u>
				to

2. Total amount of water being transferred 4.0 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Potter Springs tributary to Billingsley Creek

4. Point(s) of Diversion: (No Change)

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	SW	19	07S	14E	Gooding	Potter Springs
								RECEIVED
								FEB 26 1998

5. Lands irrigated or place of use:

Department of Water Resources

Southern Region

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals	
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼		
7S	13E	24	40	36	36	31										20	38	39	30	270
7S	14E	19						15	6				12							33
7S	13E	24																		

Place of Use for Fish Ponds
& Recreation in existing facilities.

Total acres 303* See Remarks on
attached sheet

PART 1

6. General Information:

- a. Description of diversion system Collection box & pipe from springs to
be connected to existing irrigation delivery system from
other rights & water to be passed through existing ponds.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X 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:
Because the land now served by Potter Spring will be
served by shares in the Big Springs Water Users
Association if this transfer is approved, there will be
no change.
- d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

 1981 1982

Page 3 of 8STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5268

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- * a. Decree No. 36-02465 Decreed to Partial Decree by SRBA Court
(See attached Proof Report)
in case of _____ vs. _____
dated 12/29/1997 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

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

☐ Tax Notice☐ Warranty Deed☐ Other _____3. Source of water Potter Springs tributary to _____4. Date or priority 1/18/1961

5. Water is used for the following purpose:

amount 4.0 cfs for Municipal purposes from 1/1 to 12/31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 4.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

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

8. Lands irrigated or place of use: * Place of Use within City Limits of Hagerman

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			and lands in the vicinity of Hagerman within the place of use listed below:																
7S	13E	14	X	X	X	X			X	X	X		X	X	X	X	X	X	
		23	X	X			X	X											

Total acres _____

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

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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JUN 02 1998

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-02465

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
MUNICIPAL	01/01 to 12/31	4.00 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
POTTER SPRINGS	BILLINGSLEY CREEK

Priority: 01/18/1961

LOCATION OF POINT(S) OF DIVERSION: SESESW , Sec. 19, Township 07S, Range 14E
GOODING County

PLACE OF USE: MUNICIPALTWN RGE SEC

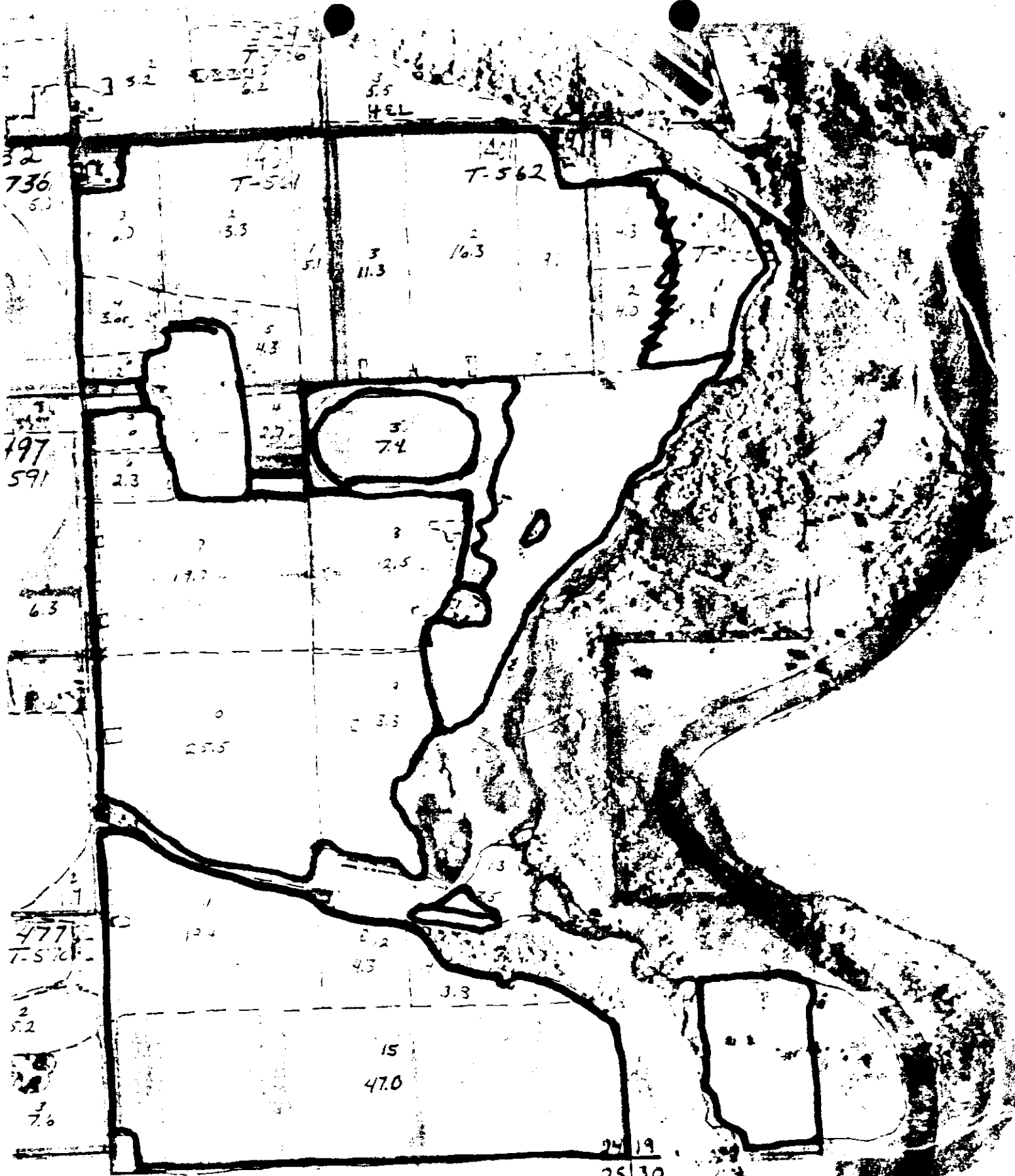
07S 13E 14	NENE	NWNE	SWNE
	SENE	SWNW	SENE
	NESW	SWSW	SESW
	NESE	NWSE	SWSE
	SESE		
23	NENE	NWNE	NENW
	NWNW		

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. PLACE OF USE IS LANDS WITHIN CITY LIMITS OF HAGERMAN AND LANDS IN THE VICINITY OF HAGERMAN WITHIN THE PLACE OF USE LISTED ABOVE.
4. USE OF THIS RIGHT WITH RIGHT NOS. 36-00022 & 36-15168 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1063 ACRES IN A SINGLE IRRIGATION SEASON.

NOTED

JUN 11 1961



* Map from first two applications

JAN 2 1968

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Irrigation	4.00 cfs		Irrigation Season
	Fish Propagation	4.00 cfs		1/1 to 12/31
	Recreation	4.00 cfs		1/1 to 12/31

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

N/A for Irrigation; Discharge from ponds to comply with DEQ requirements (No change from existing discharge)

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

There will be no net change. If approved, this right will be exchanged for shares in Big Springs Water Users Assoc. and all existing uses on both places will be maintained. In other words this is a exchange of uses.

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.

[Signature] Attorney in fact for City of Hegama
(Signature of Applicant)

Subscribed and sworn to before me this 26th day of February, 1998.

[Signature]
(Notary Public)

My commission expires

6/30/2000

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 3 attachmentsReceived by ADM Date 3/10/98 Protest filed by _____Prelim. check by _____ Fee \$100.00Receipted by JS Date 3/22/96 5018952Published in Gooding Co. Record Copies of protest forwarded by _____Pub. dates 3/4 & 3/11/98 Hearing held by _____ Date _____Watermaster recommendation requested on 3/2/98 Recommended for ☐ approval ☐ denial_____ rec'd. 3/10/98 by _____

Copy of transfer sent to lien holder _____

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JUN 02 1998

6/8

Attached Sheet

Transfer No. 5208
2/26/98

By transferring 36-02465 the combined use limit needs to be changed for this right as well as those rights presently used for irrigation on the Billingsley Creek Ranch. These other rights which overlap the proposed place of use include:

36-00046

36-00022 & 36-00023*

Additionally combined use limit needs to be changed for the overlap of rights 36-15462 and 36-11060 for the non-consumptive fish & recreation uses ~~to limit~~ to conform to existing uses.

52 Shares in Big Springs Water Users Assoc.

MICROFILM

JUN 02 1998

T# 5208

AJ5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

02/26/98 13:14:27
Page 1

Water Right Number - 36-02465

Prefix Translation: WATER RIGHT

Old (D) Number - 39323

+ - - - - Last Name - - - - + + - - - - First Name - - - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CITY OF HAGERMAN

1 - PO BOX 158

2 -

3 -

City- HAGERMAN

Phone - 208-837-6636

State- ID Zip- 83332

+ - - Priority Date - - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/18/1961 17 SOUTHERN D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
POTTER SPRINGS BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot Rflg County Diversion Name

07S 14E 19 SE SE SW (47) GOODING

+ - - - - Description - - - - - Water Use - - - - - Diversion Rate - - - - - Diversion Volume - - - - - +
Code Period From Period To

40 - MUNICIPAL

4.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
4.000 01/01 12/31 0.0

+ - - - - Place of Use - - - - - Description - - - - - County - - - - - +
Twn Rng Sec Tract Lot Acres Code

07S	13E	14	NE NE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	NW NE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SW NE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SE NE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SW NW	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SE NW	40	MUNICIPAL	(47)	GOODING
07S	13E	14	NE SW	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SW SW	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SE SW	40	MUNICIPAL	(47)	GOODING
07S	13E	14	NW SE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SW SE	40	MUNICIPAL	(47)	GOODING
07S	13E	14	SE SE	40	MUNICIPAL	(47)	GOODING
07S	13E	23	NE NE	40	MUNICIPAL	(47)	GOODING
07S	13E	23	NW NE	40	MUNICIPAL	(47)	GOODING
07S	13E	23	NE NW	40	MUNICIPAL	(47)	GOODING
07S	13E	23	NW NW	40	MUNICIPAL	(47)	GOODING

+ - - Diversion Means - COLLECTION PIPES TO CONCRETE BOX, 9000' STEEL PIPE TO CITY

+ - - Non-Irrigation Use -

Remarks

PLACE OF USE IS LANDS WITHIN CITY LIMITS OF HAGERMAN AND LANDS IN THE VICINITY OF HAGERMAN WITHIN THE PLACE OF USE LISTED ABOVE.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00022 & 36-15168 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1063 ACRES IN A SINGLE IRRIGATION SEASON.

Old Water Right Numbers

3602465

----- Conditions of Approval -----
 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
 - PURSUANT TO SECTION 42-1425, IDAHO CODE.
 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
 - SECTION 42-1425, IDAHO CODE.

+ + - - - Decree Plaintiff - - - +
 + - - - - Decree Defendant - - - +
 UNITED STATES ET AL
 STATE OF IDAHO
 + - Decree Date - +
 12/29/1997

+ - - Audit Fields - 08/25/97 DSHAFF 08/28/97 DSHAFF 01/06/98 PD-DSHAF

Date:	09/13/1991	User Id:	CLELLAND	Subject:	OTHER RIGHTS USED; COMBINED USE LIMITS	Comments:
36-15166	IS FOR 93 SHARES OF BIG SPRING WATER USERS.					
	COMBINED USE LIMITS BASED ON:					
	ARE ALSO COVERED UNDER 36-15166 AS MUNICIPAL.	36-15168	COVERS			
Date:	09/13/1991	User Id:	CLELLAND	Subject:	COPIED FROM REMARKS	
	P/U WITHIN CITY LIMITS OF CITY OF HAGERMAN & VICINITY.					
	SOURCE AKA POTTER SPRINGS.					
Date:	10/23/1992	User Id:	THORNTON	Subject:	CHANGE IN RECOMMENDATION	
	I CHANGED TO CONSUMPTIVE USE, TOTAL ACRES BASED ON CHANGES TO					
	ADDITIONALLY, I CHANGED THE REFERENCES FROM 36-15166 TO 36-00022					
	BASED ON THE BIG SPRINGS WATER USERS CHANGES.					

[illegible]

City of Hagerman

P.O. Box 158
Hagerman, Idaho 83332
Phone 208-837-6636
Fax 208-837-9058

December 1, 1997

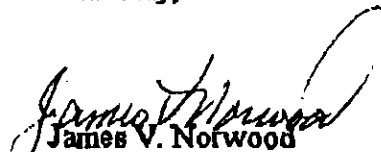
Hepworth, Lezarniz & Hohnhorst
Attorneys at Law
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID 83303-0389

ATTN: Pat Brown

Dear Mr. Brown,

The City of Hagerman grants you, Patrick Brown, Power of Attorney in regard to proceedings connected with the water exchange between Billingsley Creek Ranch and the City of Hagerman.

Sincerely,


James V. Norwood
Mayor

DEC 02 1997

T#5208

SRBA

SUBCASE SUMMARY REPORT 36-02465

[Return to SRBA Home Page](#)

SRBA
05-04-1998

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 36-02465 FILE#: 00272

CLAIMANT: CITY OF HAGERMAN

STATUS: ADMIN PROCEED PENDING

WATER SOURCE: POTTER SPRINGS, BILLINGSLEY CREEK

ISSUES: QUANTITY OF WATER USED

PLACE OF USE OR IRRIGATED ACRES IN EACH 40 A.
CONSUMPTIVE USE

**** PARTIES INVOLVED ****

CITY OF HAGERMAN
IDWR

PRO SE
ATTY: CLIVE STRONG

**** ROA ENTRIES ****

04-30-1993	OBJECTION (OBJ 1) FILED BY DEPT OF JUSTICE	RF	09-01-1993 0001
08-30-1993	CONSERVATION GROUP'S MOTION TO INTERVENE	MF	
	F/B LAND & WATER FUND OF ROCKIES		
08-30-1993	LODGED: RESPONSE TO OBJECTION/CONSERV GROUPS		
09-01-1993	RESPONSE TO OBJ 1 F/B CITY OF POCAHELLO		0002
09-10-1993	RESPONSE TO OBJ 1 F/B IDWR		0003
11-04-1993	ORDER OF REFERENCE APPOINTING TERENCE DOLAN		
	SPECIAL MASTER IN REPORTING AREA 3 (B-36)		
04-19-1994	ORDER STAYING PROCEEDINGS IN SUBCASES IN	OT	
	R.A. 1, 2 & 3 AND STAYING THE OBJECTION AND		
	PERIOD AS TO THE DIR RPT OF THE U.S. &		
	TRIBAL NONCONSUMPTIVE CLAIMS & THE DIR RPT		
	FOR THE 1990 FORT HALL INDIAN WATER RIGHTS		
	AGREEMENT AND STAYING PROCEEDINGS IN		
	TWIN FALLS COUNTY CASE 39576 (DL13)		
04-27-1994	AMENDED ORDER STAYING PROCEEDINGS IN SUBCASES		
	IN REPORTING AREAS 1, 2 AND 3 & STAYING		
	THE OBJECTION PERIOD OF THE DIR'S RPT OF		
	THE U.S. & TRIBAL NON-CONSUMPTIVE CLAIMS &		
	STAYING PROCEEDINGS IN TWIN FALLS COUNTY		
	CASE NO. 39576 (DL19)		
12-07-1994	ORDER LIFTING STAY IN REPORTING AREAS 1, 2	OL	
	AND 3; AND TWIN FALLS COUNTY CASE NO.		
	39576, AND CONTINUING STAY OF DIRECTOR'S		
	REPORTS ABSTRACTING FEDERAL RESERVED WATER		
	RIGHTS (DL43)		
12-22-1994	42-1416/1416A CLAIM PER IDWR RPT OF 2/16/94	OT	12-22-1994
	SUBCASE STAYED-12/22 ORDER RE MOT FOR STAY		
03-14-1995	STIPULATION TO WITHDRAW OBJECTIONS F/B US		0001
03-27-1995	STANDARD FORM 5 FILED		03-27-1995
08-14-1996	ORDER DISMISSING OBJECTIONS & RESPONSES		08-14-1996 0001
07-09-1997	PROCEEDING FORWARD NO STAY		
07-15-1997	ORDER SETTING SCHEDULING CONFERENCE	SV	08-28-1997 1000
07-31-1997	ORDER RESETTING SCHEDULING CONFERENCE	SV	08-26-1997 0915
08-22-1997	ORDER VACATING SCHEDULING CONFERENCE		

08-25-1997	RECOMMENDATION ORDERED		
09-08-1997	LDGD: PRELIM MASTER REPORT & RECOMMENDATION	MB	09-22-1997 0500
09-08-1997	NOTICE OF ISSUANCE - PRELIMINARY R & R		
09-08-1997	CERTIFICATE OF MAILING - PRELIMINARY R & R		
10-01-1997	REPORT & RECOMMENDATION OF MASTER	CB	11-28-1997
10-01-1997	NOTICE OF ISSUANCE - FINAL R & R		
10-01-1997	CERTIFICATE OF MAILING - FINAL R & R		
11-26-1997	NOTICE OF ADMINISTRATIVE PROCEEDING	AZ	12-01-1998
	42-222 TRANSFER; PERIOD OF YEAR, PLACE OF		
	USE, NATURE OF USE		
12-29-1997	ORDER OF PARTIAL DECREE		
12-29-1997	PARTIAL DECREE FILED		12-29-1997
12-29-1997	CERTIFICATE OF MAILING - PARTIAL DECREE		

[Return to SRBA Home Page](#)

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

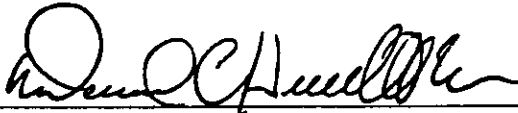
In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 36-02465
_____	)	

On October 1, 1997, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-02465 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 29, 1997.



DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

MICRO

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 36-02465

NAME & ADDRESS: CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332

SOURCE: POTTER SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS

PRIORITY DATE: 01/18/1961

POINT OF DIVERSION: T07S R14E S19 SESESW Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
MUNICIPAL 01-01 12-31 4.00 CFS

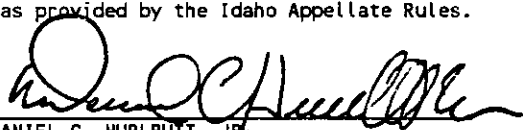
PLACE OF USE: MUNICIPAL Within GOODING County
T07S R13E S14 NENE NWNE SWNE SENE
SWNW SENW NESW SWSW
SESW NESE NWSE SWSE
SESE
S23 NENE NWNE NENW NWNW

PLACE OF USE IS LANDS WITHIN CITY LIMITS OF HAGERMAN AND
LANDS IN THE VICINITY OF HAGERMAN WITHIN THE PLACE OF USE LISTED
ABOVE.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00022 & 36-15168
IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1063 ACRES IN
A SINGLE IRRIGATION SEASON.

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

1997 DEC 29 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)

)

CERTIFICATE OF MAILING

Water Right(s): 36-02465

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-02465 was mailed
on December 29, 1997, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
CLIVE STRONG
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

CITY OF HAGERMAN
P.O. BOX 158
HAGERMAN, ID 83332

DIANA DELANEY

Chief Deputy Clerk

Updated
02/13/2001

IDAHO DEPARTMENT OF WATER RESOURCES
~~Water Right Report~~

WATER RIGHT NO. ~~36-2465~~

Owner Type Name and Address
Current Owner CITY OF HAGERMAN
 PO BOX 158
 HAGERMAN, ID 83332
 (208)837-6636

Priority Date: 01/18/1961
Basis: ~~Referred~~
Status: Active

Source Tributary to
POTTER SPRINGS BILLINGSLEY CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/15	11/15	4 CFS	1212 AFA	
FISH PROPAGATION	1/01	12/31	4 CFS	1460 AFA	
RECREATION	1/01	12/31	4 CFS	1460 AFA	
Total Diversion			4 CFS	1460 AFA	

Location of Point(s) of Diversion:

POTTER SPRINGS SESESW Sec. 19 Township 07S Range 14E GOODING County

IRRIGATION Use:
Acre Limit: 303

Place(s) of use:

Place of Use Legal Description: IRRIGATION GOODING County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07S	13E	19		NWNW	15		SWNW	6						
				SWSW	12									
		24		NENE	40		NWNE	36		SWNE	36		SENE	31
				NESE	20		NWSE	38		SWSE	39		SESE	30

Place of Use Legal Description: FISH PROPAGATION GOODING County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07S	13E	24		NESE										

Place of Use Legal Description: RECREATION GOODING County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07S	13E	24		NESE										

Total Acres: 303

Conditions of Approval:

1. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
2. 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.

Water Right 36-2465

3. 081 Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare
4. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. 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.

Comments:

Author	Date	Subject	Comment
CLELLAND	9/13/91	OTHER RIGHTS USED; COMBINED USE LIMITS	36-15166 IS FOR 93 SHARES OF BIG SPRING WATER USERS. 36-15168 IS FOR 48 SHARES OF HAGERMAN WATER USERS. COMBINED USE LIMITS BASED ON: CITY OF HAGERMAN (CITY LIMITS) IRRIGATE 102 ACRES; ALL 102 ACRES ARE ALSO COVERED UNDER 36-15166 AS MUNICIPAL. 36-15168 COVERS 55 ACRES OF OVERLAPPED ACRES UNDER THAT 319 ACRE RIGHT. COPIED FROM REMARKS P/U WITHIN CITY LIMITS OF CITY OF HAGERMAN & VICINITY. DIVERSION WORKS CONSISTS OF THREE COLLECTION PIPES TO A 6' X 11' X 4' CONCRETE COLLECTION BOX WITH APPROX. 2 MILES OF 12 AND 14 INCH STEEL PIPELINE TO CITY DISTRIBUTION SYSTEM. SOURCE AKA POTTER SPRINGS.
THORNTON	10/23/92	CHANGE IN RECOMMENDATION	I CHANGED TO CONSUMPTIVE USE, TOTAL ACRES BASED ON CHANGES TO THE HAGERMAN WATER USERS RIGHT AND BIG SPRINGS WATER USERS CLAIM. ADDITIONALLY, I CHANGED THE REFERENCES FROM 36-15166 TO 36-00022 BASED ON THE BIG SPRINGS WATER USERS CHANGES.
MBALDWIN	2/26/98	AMENDED TRANSFER APPLICATION	Application was Amended on 2/26/98 to clarify water rights involved and to identify the source.
PSKAGGS	4/2/98	TRANSFER 5208	Transfer 5208 changes the place, nature & season of use under Right 36-02465.

Dates:

Licensed Date:
 Decreed Date: 12/29/1997
 Permit Proof Due Date:
 Permit Proof Made Date:
 Permit Approved Date:
 Permit Moratorium Expiration Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Application Received Date:
 Protest Deadline Date:
 Number of Protests: 0

Other Information:

Receipt Number(s):
 State or Federal:
 Owner Name Connector:
 Water District Number: 36A
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 21, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332

RE: Water Right 36-02465 (Transfer 5208)

Dear Water Right Holder(s):

Enclosed is a copy of your approved Transfer of Water Right for the above referenced water right (Transfer 5208). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying **transfer approval** should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

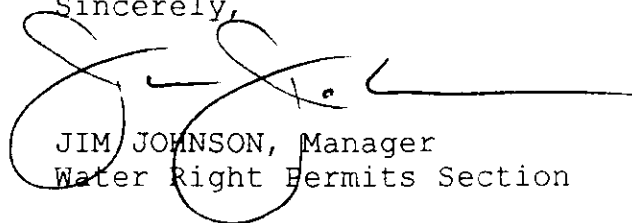
As of July 1, 1996, all water right owners are required to report any change in water right ownership and any change of mailing address to the department.

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

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

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

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt
Enclosures

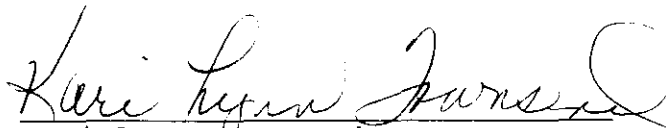
MICROFILMED
JUN 02 1998

CERTIFICATE OF MAILING

I hereby certify that on the **21st** day of **May, 1998**, I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

WATER RIGHT 36-02465 (Transfer 5208)

**CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332**


Kari Lynn Townsend
Secretary

RECEIVED
JUN 02 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 21, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FRANK ERWIN
WATERMASTER
2628 S 975 E
HAGERMAN ID 83332

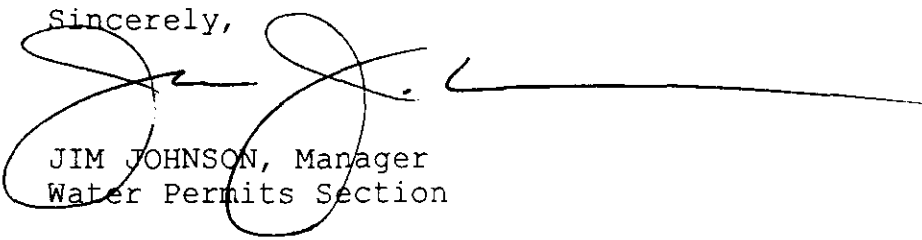
RE: TRANSFER OF WATER RIGHT 36-02465 (Transfer 5208)

Dear Frank:

Enclosed is a copy of the recently approved Transfer of Water Rights for the above referenced water rights (Transfer No. 5208) in the name of City of Hagerman.
Also enclosed is a copy of the reviewers notes.

If you have any questions, please call me at (208) 327-7947.

Sincerely,



JIM JOHNSON, Manager
Water Permits Section

JJ:klt

Enclosures

MICROFILMED
JUN 02 1998

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

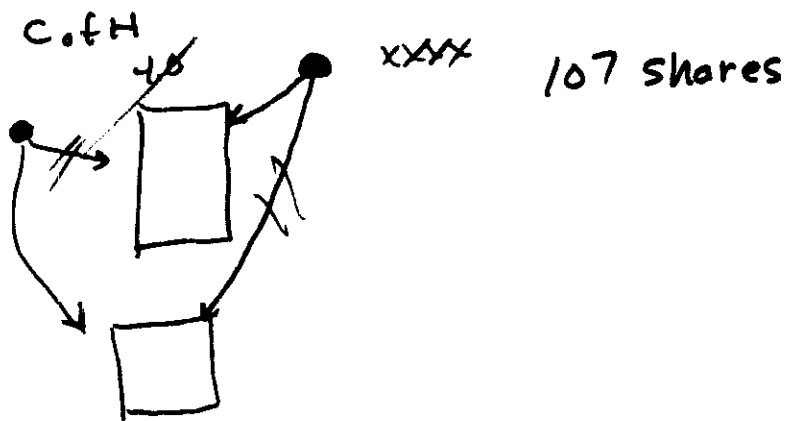
If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review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

ORAL ARGUMENT

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

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JUN 02 1998



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APR 14 1998

PARKER, WARR & BROWN, LLP
ATTORNEYS AT LAW

Department of Water Resources

PENELOPE PARKER
JEFFREY A. WARR
PATRICK D. BROWN

812 Shoshone Street East
Twin Falls, Idaho 83301
phone (208) 735-8812
facsimile (208) 735-8820

April 8, 1998

Allen Merritt, Regional Manager
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls, ID 83301-3380

RECEIVED
APR 09 1998
Department of Water Resources
Southern Region

Re: City of Hagerman Transfer
Transfer File No. 5208
Water Right No. 36-02465

Dear Allen:

I wanted to write to thank you for meeting with the parties involved in the above water rights transfer. It was helpful to understand your position concerning the transfer as set out in the memorandum dated March 25, 1998.

Your memorandum notes that this describes part of a water swap between the City of Hagerman and Billingsley Creek Ranch. However, This transfer should not necessarily be conditioned or held up because you believe there should be another transfer on the Big Springs water, which may be what you called the "other half of the swap." I hope the following clarifies why, and clears up any misunderstanding about the scope of the instant transfer.

First, your memorandum indicates there have been discussions about incorporating mitigation for permit applications 36-08756 and 36-08757. I apparently have not been privy to those discussions and would appreciate receiving anything you may provide to inform me in that regard.

Second, as you know, Billingsley Creek Ranch is anxious to begin the work required in order to make the Tupper Springs water available on Billingsley Creek Ranch. The work necessary can only be done in the spring and the fall. Therefore, we would like to get the City of Hagerman transfer resolved, without regard to whether or not another transfer application will be filed.

This transfer can be approved without processing another application. Approving this one would authorize only the use of Tupper Springs water on

MICROFILMED

JUN 02 1998

Billingsley Creek Ranch, not the use of Big Springs water shares by the municipality. Thus, the net effect of approving it would be to authorize only a reduction in water use, which could harm no one. I ask that you or others at IDWR keep this mind in reviewing this unprotected transfer.

Your memorandum also notes IDWR believed both applications should be processed together because a change in nature of use from irrigation to municipal use would represent an expansion of use. First, that concern should be taken up only if and when a second transfer application is filed. Additionally, I understand Billingsley Creek Ranch has used its Big Springs shares not only for irrigation, but for fish propagation and aesthetics on a year-around basis. This must be considered in determining whether an expansion may result from a second transfer, but only if the second transfer is initiated.

With the above clarifications in mind, I would also like to comment on the recommendations stated in your memorandum. First, you suggested a portion of right 36-02465 used for irrigation should have combined limits with other rights on Billingsley Creek Ranch. That may be appropriate provided the total combined volumes reflect the actual use on the property. In other words, the total combined diversion rate should be the sum of the individual rights, not some lesser amount. This would actually reflect the quantity of water diverted.

Also, I believe it is inappropriate to condition this transfer upon a transfer of rights 36-00022 and 36-00023, the Big Springs water. Nor would it be appropriate to limit use of the 107 shares of Big Springs water to use by the City for irrigation purposes. The Department's position seems to be that an additional transfer would have to be filed in order to authorize use of Big Springs shares by the City. It follows then, that any use of those shares, whether it be based on concerns for expansion beyond irrigation or for any other reason, are matters which should be taken up only if and when such other transfer application is made.

The transfer application before the department does not request authorization to use those Big Springs shares in the municipality. The Department has continuously maintained that two separate issues exist, and, therefore, two separate applications should be filed. I hope it will act consistently with that line of thinking.

RECEIVED

JUN 02 1998

Allen Merritt
Page 3
April 8, 1998

Finally, you indicated that there may be other questions concerning the manner in which Billingsley Creek Ranch's other rights are ultimately described. As Donnie McFadden stated at the meeting, he will be in contact with you regarding cleaning up his own rights. Therefore, I do not attempt to do that for him through this letter and trust that IDWR will not use what is said here to Donnie's disadvantage.

I hope my points both clarify the situation and alleviate any concerns the Department has about approving the instant transfer. If you would like further documentation of anything I have said, I am certainly willing to provide it. Please let me know. Otherwise, I would appreciate it if you could keep me updated on the progress of the transfer application. I will copy this letter to Pam Skaggs in Boise and ask her to keep me informed about the progress of the transfer also. Thank you for including this letter in the record that is provided to Boise. I look forward to hearing from the Department about the status of the transfer soon.

Very truly yours,

PARKER, WARR & BROWN

By 
Patrick D. Brown

PDB/lt

Cc: Pam Skaggs

RECEIVED
APR 9 2 1998

MEMORANDUM

TO: File 36-02465

FROM: Pam Skaggs^{CS}/State Office

SUBJECT: Transfer 5208

DATE: April 9, 1998

Transfer 5208 changes the place, nature and season of use under Right 36-02465. This transfer is one half of an exchange of water rights between the City of Hagerman and Billingsley Creek Ranch (BCR).

The city is transferring this municipal water right for 4.0 cfs of Potter Springs to BCR for irrigation, recreation and fish propagation uses. These uses are already present and BCR is exchanging shares in Big Springs Water Users Association (BSWUA) to be used by the city. The water quality of Right 36-02465 has been a problem for municipal use and the spring is also located on BCR and readily accessible. No transfer has been filed by BSWUA at this time.

The change in nature of use from municipal that is an umbrella for multiple uses to three specific uses is not an enlargement of this right. Season of use is limited under the irrigation use to season identified by SRBA recommendations, 03-15 to 11-15. Diversion volume was identified according to current standards. Region manager's memo recommended particular combined conditions.

Recommended conditions include watermaster control, measuring device & lockable controlling works, water quality, irrigation overlap, combined limit conditions and standard transfer conditions.

MICROFILMED
JUN 07 1998

TRANSFER REVIEW SHEET

(06-97)

Transfer # 5208

Date Reviewed 03-30-98

Right(s) 36-02465 - SRBA Basin 36 Director's Report

28

WRQ Print Split Summary ☒ Run POU Comparison Report

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

Proof of Ownership Director's Report - SRBA

Agreement to Exchange Water - City & Ranch 11-6-97

Transfer ☒ All of Right ☐ Portion of Right

Resulting Split(s) NONE

Check Transfer Against Recorded Right

Season/Vol. IRR 0/4.0

(1) ☒ Priority (2) ☐ Use (3) ☐ Season (4) ☒ Rate (5) ☐ Volume

non-additive - 4.0 total

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

(11) ☒ Water District (12) ☒ Pertinent Conditions (13) ☐ Expansion

WR Comment Revd 3-10-98

(2) Change Municipal (Multiple uses) to IRR/FISH/REC use on Billingsley Creek Ranch.
Ranch exchanges spaces (BSWUA) to city - unless transferred for IRR use.

(3) Reduce IRR season to standard 4-1 to 10-31 per ACT 3-15 to 11-15

(5) IRR volume = $4 \times 303 = 1212 \text{ aka max}$ FISH/REC max. Vol = 1466 aka (365 days)

(8) Change P/U to BCR 303 Acres + Pond

Transfer Remarks was 5-25-98 recommended & per A.M. recommendation (see memo)
Conditions R44, R43, R44 081 TO 7, TO 8

water quality
FISH

Database/Processing Notes Standard ☐ Non-Standard ☒

Copy approved version to an "X" prefix on WR database

Pccommon File ☒
File Deleted ☒

Transfer Memo Complete ☒
Database Updated 05-11-98 28

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

WR-NUMBER	SOURCE	NE				NW				SW				SE				SUM
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
T07S R13E S 24																		
0100212	SNAKE RIVE :																	
0100213	SNAKE RIVE :																	
0100215	SNAKE RIVE :																	
0100220	SNAKE RIVE :																	
3600004	BILLINGSLE :																	
*3600004	BILLINGSLE :																	
A3600004	BILLINGSLE :																	
R3600004	BILLINGSLE :																	
*3600022	BIG SPRING :	40	36	36	31	40	39	34	34	35				31	36	39	30	461
A3600022	BIG SPRING :	40	36	36	31	40	39	34	34	35				31	36	39	30	461
R3600022	BIG SPRING :	40	36	36	31	40	39	34	34	35				31	36			392
A3600023	BIG SPRING :	40	36	36	31	40	39	34	34	35				31	36	39	30	461
R3600023	BIG SPRING :	40	36	36	31	40	39	34	34	35				31	36			392
3600029	THREE SPRI :																	
*3600029B	THREE SPRI :																	
R3600029B	THREE SPRI :																	
3600045	WEATHERBY :																	
3600046	THREE SPRI :																	
*3600046	THREE SPRI :	40	36	36	31									20	38	39	30	270
A3600046	THREE SPRI :	40	36	36	31									20	38	39	30	270
R3600046	THREE SPRI :	40	36	36	31									20	38	39	30	270
3600153	BIG SPRING :					I	I											
3600154	BIG SPRING :							I										
3600162	BIG SPRING :					I	I											
3600163	BIG SPRING :																	
3600164	BIG SPRING :	I																
3600177	WEATHERBY :																	
3600178	SPRINGS :																	
3602025	SPRING :																	
T3602465	POTTER SPR :	40	36	36	31													
3608747	GROUNDWATE :																	
A3610220	SPRING :																	
A3615166	BIG SPRING :	16	20	20	20	40	40	40	40	40				20	20			346
--86 MAP--	C47Q-AA 70 :	37	40	39	32	40	40	40	40	39	39	40	38	18	39	37	36	594
--86 MAP--	C83Q-AA 70 :	39	40	39	37	40	40	40	40	39	39	40	38	36	39	37	39	622

T07S R14E S 19

Proposed P/U → 15 6

12

33

0100005	SNAKE RIVE :																	
0100016	SNAKE RIVE :																	
0100212	SNAKE RIVE :																	
A010021220	SNAKE RIVE :									40			20	40	40	40	40	220

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

[illegible]

SD-0611-2 Basin: 36 Starting Water Right: 02465

S	Water	Name	O	Priority	STG/		Use	S
E	Right No.	Last, First	W	Date	STS	Source	Desc	Y
L			N					S
-	36-02465	CITY OF HAGERMAN	C	01/18/1961	L/	SPRINGS	DOMEST	WR
-							MUNI	
-	T36-02465	CITY OF HAGERMAN	C	01/18/1961	D/	POTTER SPRINGS	IRR	WR
-							FISH	
-							REC	
-	36-02465	CITY OF HAGERMAN	C	01/18/1961	D/	POTTER SPRINGS	MUNI	AJ
-	36-02465	CITY OF HAGERMAN	C	01/18/1961	D/	POTTER SPRINGS	MUNI	AJ
-	A36-02465	CITY OF HAGERMAN	C	01/18/1961	L/	POTTER SPRINGS	MUNI	AJ

(GOLD6=Print Profile Rpt For All Rights/Claims on Screen)
(Enter=Continue) (GOLD7=This Query) (GOLD8=Cancel) (Menu _____)

From: DWR60::AMERRITT 2-APR-1998 10:35:33.57
To: DWR03::NYOUNG,DWR03::GSAXTON,DWR03::PSKAGGS,DWR03::DTUTHILL,DWR03::NSPEN
CC: AMERRITT
Subj: fyi

FROM: Allen Merritt

DATE: April 2, 1998

TO: Norm Young
Dave Tuthill
Glen Saxton
Nick Spencer
Pam Skaggs
Doug Jones
Steve Clelland

SUBJECT: Meeting regarding City of Hagerman Transfer No. 5208

Yesterday I met with Mr. Norwood (mayor of Hagerman), Donnie McFadden, Pat Brown and Senator John Sandy. The meeting was called for by Pat Brown's office and before the meeting I didn't know for what purpose the meeting was called.

At the meeting we discussed the history of processing the transfer and I passed out copies of my recommendation. (Note that the transfer has been forwarded to the State Office for approval.)

The purpose of this transfer is to change the use of the city's Potter Spring right (Municipal) for use on Donnie McFadden's Billingsley Creek Ranch (Irrigation, Fish Propagation, Recreation). In exchange for this transfer Billingsley Creek Ranch is giving the city 107 shares in the Big Springs Water User's Association. The transfer of the rights involved in the shares is not part of this transfer application. (SEE FILE FOR MORE DETAILED DISCUSSION)

At the meeting we discussed the issue regarding the need for BSWUA to file a transfer. Pat Brown expressed his theory that they don't need to; I expressed my theory that they do. I told them there are issues of expansion when shares' uses are changed but their argument was that the water is always used so no expansion exists. McFadden indicated that his BSWUA shares have been used year round either for irrigation or running through his ponds. He indicated there will be no increase in use at his facility. I questioned the BSWUA rights 36-00022 & 23 as having a right for use in fish ponds built in the 1970's but Pat Brown indicated that the ponds have been found with 1886 priorities as represented in 36-11060 & 36-15462 special master's recommendations. I told them IDWR gets mixed signals with regards to this issue from the special masters for in other cases another special master would probably not have granted such a priority and the department's recommendation in such situations normally would not be for such an early priority. I told them I didn't think our direction has changed. After this discussion the parties present expressed their desire to separate that issue from this transfer application so that McFadden can get on with doing the construction work necessary to incorporate the Potter Springs into his system. I agreed to make that recommendation to the State Office. Pat Brown indicated he would write a letter to IDWR and continue to argue his position as well as in the SRBA subcases for the BSWUA's claims. At the conclusion of the meeting McFadden understood he needs to do more to address

JUN 02 1998

his irrigation of the land in SESW Section 19 and also needs to do something about mitigation for applications 36-08756 & 36-08757. He indicated he would come in later and work with the department to try to get this ironed out. Norwood left with a greater understanding of the complexity of the situation although he still feels frustration with the process.

After the meeting I received a phone call from Jo Beeman representing the Groundwater Pumpers. They have decided to look into the implications of this transfer and impacts on Billingsley Creek. Apparently they are parties to some of the SRBA disputes involving the overlapping rights as well as the BSWUA rights. I told her that the transfer file was in Boise and it was too late to file a protest but if she wanted to express some point or issue she could write the director and send a copy to the other parties. I told her we would consider what she had to say and allow the applicant and other parties to respond. She indicated she would visit the State Office and review the file.

60271-1011

JUN 02 1998

IDWR TRANSFER ANALYSIS SHEET

City of Hagerman
APPLICANT Sitting Bull Ranch TRANSFER NO. 5208
1. Right number(s) 36-02485-36-11060-36-15462

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: _____

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: Applicant proposes to exchange water from Potter Springs (which is contaminated) for shares in Big Springs (which is potable). Companion transfer on Big Springs has not yet been filed.

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 proposed

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

36-00046

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) _____

App. is based on part 9/ decree in SRBA

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

INITIAL ALLOCATION REVIEW BY _____
SRBA SUPERVISOR REVIEW BY _____
PUBLICATION REVIEW BY _____

DATE 2-18-98
DATE 3/25/98
DATE _____

1. Legal Notice electronically sent to DWR03::VAULT ☒ Yes @ 9:33 (3/2/98)
2. COMMENT LETTERS copy of Pg 1 to AJ ☒ Yes

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: _____

4. By _____ Date _____

FROM: Allen Merritt

DATE: March 25, 1998

TO: Transfer File No. 5208
Water Right(s): 36-02465

In the Name of: CITY OF HAGERMAN

RECEIVED

MAR 25 1998

SUBJECT: Review and Recommendation

This transfer proposes to convert a water right that has been recently decreed in the SRBA for municipal Department of Water Resources that for irrigation, fish propagation & recreation and change combined use language on associated overlapping rights. This transfer describes half of a water swap between the city and Billingsley Creek Ranch (BCR). In exchange for this right being placed on BCR property BCR is trading or selling to the city 107 shares in the Big Springs Water Users Association (BSWUA). The enclosed agreement describes this arrangement.

This transfer has been discussed for several years. In these discussions there was talk about incorporating mitigation for permit applications 36-08756 and 36-08757 as well as moving irrigation rights to lands within SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Twp.07S, Rge.14E, B.M. as part of SRBA settlement. Ultimately these objectives were not incorporated into this application based on the direction of the applicant's attorney and the two earlier versions of this application.

Our office has been concerned that this application only represents half of the story. The other half deals with the BSWUA rights 36-00022 & 36-00023. Originally our office drafted a companion transfer for that change but it has not yet been filed and may never be filed. It was our feeling that both applications should have been processed together since particularly the change in nature of use from irrigation to municipal would represent an expansion of use. Since that transfer may never be filed special conditions may be appropriate for this transfer.

This transfer was advertised without protest.

RECOMMENDATION

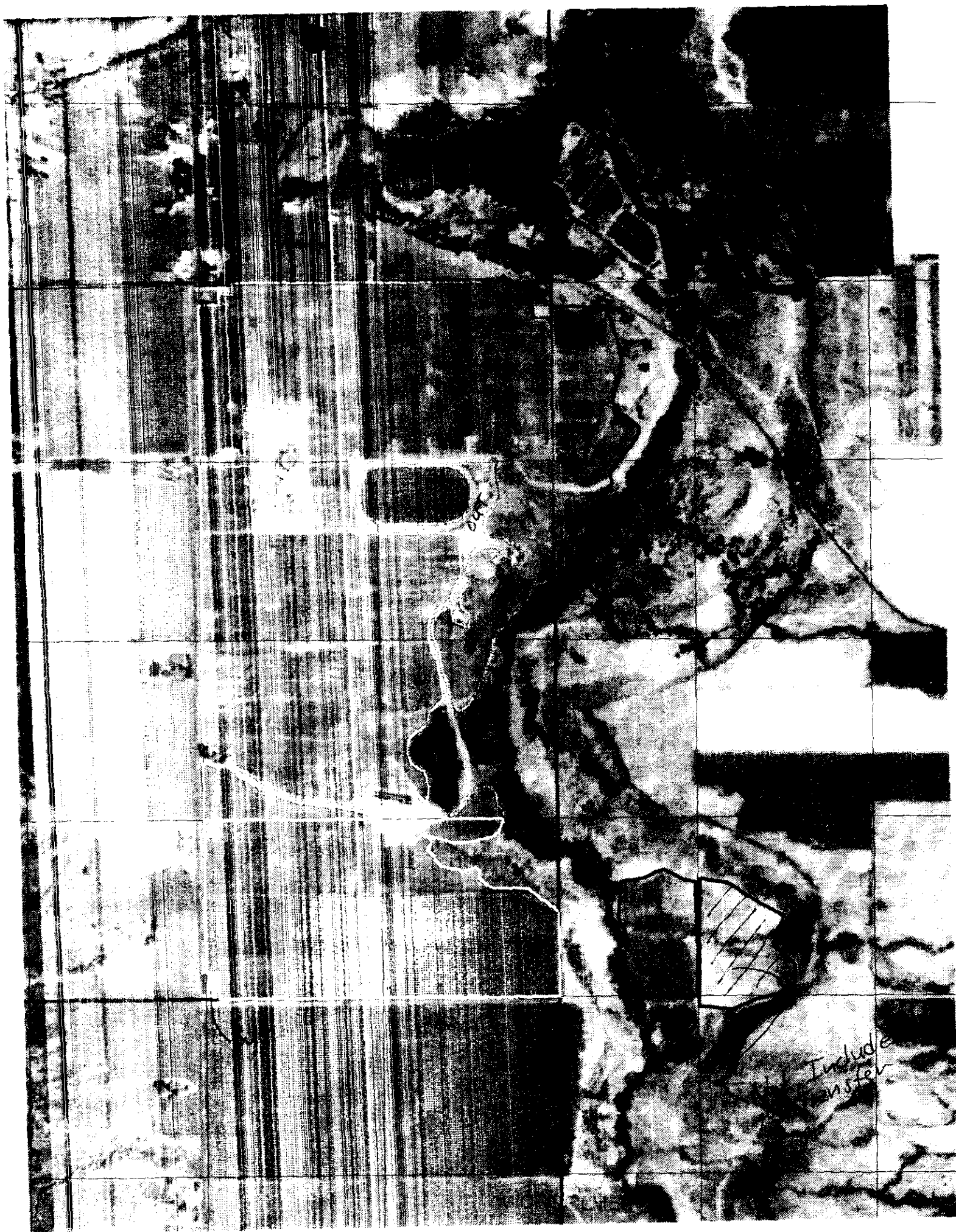
I recommend that the transfer be approved subject to the following conditions:

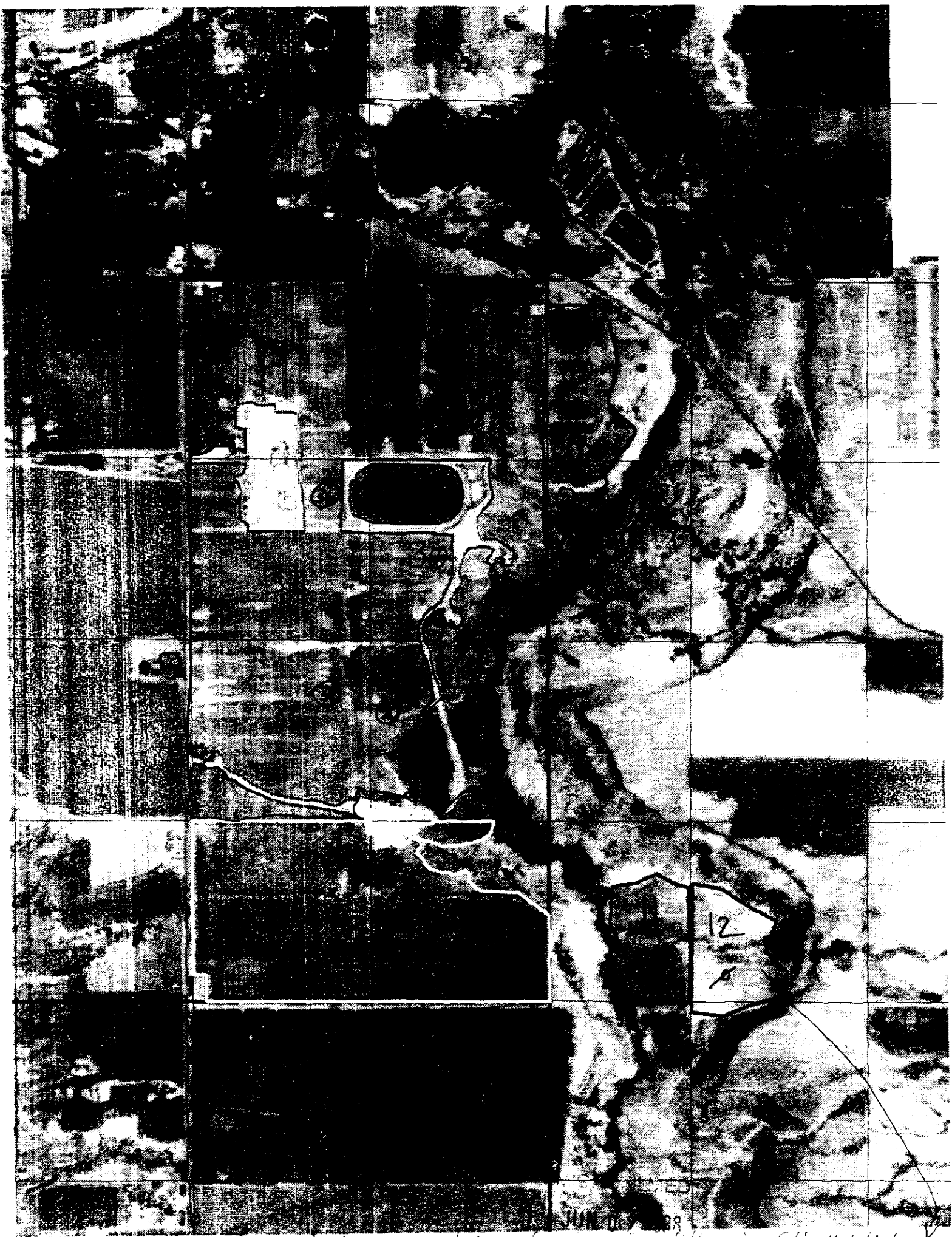
- When the portion of right 36-02465 used for irrigation on the BCR is combined with rights 36-00046, 36-00022 & 36-00023 on the BCR the total use is limited to 303 acres as described in part 1 of the application.
- When the portion of right 36-02465 used for fish propagation and recreation is combined with 36-11060 and 36-15462 there shall not be an increase in existing facility volume.

-Combined use limitations should be modified for rights 36-00046, 36-00022, 36-00023, 36-11060 and 36-15462 appropriately.

-A transfer of rights 36-00022 & 36-00023 be filed by BSWUA to document the exchange of shares between the city and BCR. (OR) Use of the 107 shares being traded to the city by BCR be limited to irrigation.

*Note that this approval may need to be reviewed by SRBA attorneys dealing with objections to BCR & BSWUA rights.





Handwritten note: *Handwritten note: 12 and 8*

Handwritten note: *Handwritten note: 1288 not counting 12*

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

Patty Nance, 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 a supplement; that the date of the first publication of said advertisement was on the 4th day of March, 1998.

and the date of the last publication was on the 11th day of March, 1998.

Patty Nance
Subscribed and sworn to before me this 18th day of March, 1998.
(SEAL)

Norma W. Doe
NOTARY PUBLIC

#1975 / 6740
GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2X

Lines tabular at _____ 7¢/Pica

662.06 Lines straight at 39.72 6¢/Pica

662.06 Subsequent lines at 33.10 5¢/Pica

TOTAL COST 75.07

COPY OF NOTICE

(Paste Here)

Water Change T # 5208
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. TF 5208

Notice is hereby given that the City of Hagerman, PO Box 158; HAGERMAN ID 83332 has applied to the Department of Water Resources for changes to a water right. The purpose of Transfer No. 5208 is to modify a water right which has become contaminated and unsuited for municipal use. The right is being exchanged for shares in the Big Springs Water Users Assoc.

PRESENTLY, Water Right No. 36-02465 (4.0 cfs) with a priority date of 01/18/1961 is diverted from Potter Springs tributary to Billingsley Creek within SESW, S19, T07S, R14E; Gooding County for municipal use within City limits and the vicinity of Hagerman, ID.

PROPOSED CHANGE

The use is proposed to be changed to Billingsley Creek Ranch property for: Fish propagation (4.0 cfs) and Recreation use (4.0 cfs) within NESE, S24, T07S, R13E in existing facilities from 1/1-12/31.

Irrigation (4.0 cfs) of 383 acres within parts of S24, T07S, R13E and parts of S19, T07S, R14E; Gooding County during the irrigation season.

Total diversion rate : 4.0 cfs

Change will modify combined use limits of other rights serving same purposes on Billingsley Creek Ranch.

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before March 23, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County Leader on 3/4 & 3/11/98.

JUN 2 1998

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

Patty Nance, 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 a supplement; that the date of the first publication of said advertisement was on the 4th day of March, 1998.

and the date of the last publication was on the 11th day of March, 1998.

Patty Nance

Subscribed and sworn to before me this 18th day of March, 1998.
(SEAL)

Norma Doe
NOTARY PUBLIC

#19751/6746
GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2 x

affidavit fee 2.25

Lines tabular at _____ 7¢/Pica
662.06 Lines straight at 39.72 6¢/Pica
662.06 Subsequent lines at 33.10 5¢/Pica

TOTAL COST 75.07

MICROFILMED

JUN 02 1998

No 6746

RECEIVED
19751

MAR 19 1998

Department of Water Resources
Southern Region

PUBLICATION RATES
(Idaho Code, Rev. Statutes 1996)
7-8 pt. per line straight 7¢/Pica
7-8 pt. per line tabular 6¢/Pica
7-8 pt. per line successive
insertions 5¢/Pica

comes after a year of unspec-
school board. The resignation
ed tensions in the district.
Magistrate Court
Feb. 26, 1998
Guillermo Banayo, Jerome,
reckless driving, not present,
status hearing April 2, prosecu-
ing attorney informs court
defendant is in Mexico.
Julie Anne Bieroth (Rider),
Gooding, second offense dogs
running at large, fine paid in
clerk's office.
Timothy J. Andolino,
Wendell, probation violation
(DUI), dismissed.
Keri Lee Koch, Gooding, dog
run at large.

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

MAR 10 1998

NO. 5208

Department of Water Resources
Southern Region

RECOMMENDATION OF WATERMASTER

I, Frank C. Erwin, watermaster of Billingstey Creek,
of Water District No. 36A, County of Gooding, State of Idaho,
whose address is 2628 S 475 E Hagerman, Id. 83332
have read the attached copy of the application for transfer of water right for _____
City of Hagerman, and to the best of my knowledge believe the
(name)
application to be true.

(A) I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: None

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: _____

Dated at Hagerman, Idaho, this 9th day of March 19 98.

Frank C. Erwin
(signature)

Please use reverse side if needed.



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

March 2, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FRANK ERWIN WATERMASTER
WATER DISTRICT #36-A
2628 S 975 E
HAGERMAN ID 83332

Re: Application for Transfer of Water Right No. 36-02465 (T# 5208,
City of Hagerman)

Dear Mr. Erwin:

Enclosed is a copy of an Application for Transfer of a Water Right
within your District, and Watermaster's Recommendation Form(s).

Section 42-222 of the IDAHO CODE requires that the watermaster must
be advised of proposed changes in water rights in the water
district and must notify the Department of his recommendation on
the application.

Please complete the enclosed recommendation form(s) and return to
this office.

Processing of an application can be completed in 20 days,
therefore, your prompt response to this request will be
appreciated.

If you have any questions about an application, please contact this
office or the applicant.

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

Enclosures

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

No. T# 5208

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PRESENTLY, Water Right No. 36-02465 (4.0 cfs) with a priority date of 01/18/1961 is diverted from Potter Springs tributary to Billingsley Creek within SESW, S19, T07S, R14E; Gooding County for municipal use within City limits and the vicinity of Hagerman, ID.

PROPOSED CHANGE

The use is proposed to be changed to Billingsley Creek Ranch property for: Fish propagation (4.0 cfs) and Recreation use (4.0 cfs) within NESE, S24, T07S, R13E in existing facilities from 1/1-12/31.

Irrigation (4.0 cfs) of 303 acres within parts of S24, T07S, R13E and parts of S19, T07S, R14E; Gooding County during the irrigation season.

Total diversion rate : 4.0 cfs

Change will modify combined use limits of other rights serving same purposes on Billingsley Creek Ranch.

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before March 23, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County
Leader on 3/4 & 3/11/98.



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

February 26, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

LEGALS DEPT
MAGIC VALLEY PUBLISHING CO
ATTN **Gooding County Leader**
PO BOX 468
JEROME ID 83338

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

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No. T# 5208

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Karl J. Dreher, Director

Published in the Gooding County Leader on 3/4 & 3/11/98.



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

February 26, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MAYOR JAMES V NORWOOD
CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332

Re: Application for Transfer No. 5208 (36-02465)

Dear Applicants:

The Department of Water Resources acknowledges receipt of your Application for Transfer.

This office has scheduled advertising the application in The Gooding County Leader for 3/4 and 3/11/98.

The advertisement(s) will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

State Office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review.

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

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

CC:

DONNIE MCFADDEN
BILLINGSLEY CREEK RANCH
2726 S 1050 E
HAGERMAN ID 83332

PATRICK D BROWN ESQ
HEPWORTH LEZAMIZ & HOHNHORST
PO BOX 389
TWIN FALLS ID 83303-0389

FROM: Allen Merritt

DATE: February 24, 1998

TO: Norm Young

SUBJECT: Hagerman/ Billingsley Creek Transfer

After our phone conversation yesterday I have reviewed the transfer file #5208 in preparation to draft a letter to Mayor Norwood. I find that the file has two applications.

The first was filed in 1996 by Billingsley Creek involving right 36-02465 from Potter Springs. This right is decreed to the City of Hagerman but included in the file is an agreement for Billingsley Creek to use this right. The transfer proposes to change the nature of use from municipal to irrigation and change the place of use to lands owned by Billingsley Creek Ranch. This transfer is being done in exchange for Billingsley Creek Ranch giving the city 107 shares which have historically been used for irrigation so they can use them for municipal use. This appears to require another separate transfer of the Big Springs right to change the nature of use of the irrigation portion of the right to municipal and place of use of same.

The second application was filed by Pat Brown in the name of the City of Hagerman and Billingsley Creek Ranch without power of attorney. It was represented to replace the first application. It involves right 36-02465 and also rights 36-11060 and 36-15462 from Three Spring. The transfer appears to do the same thing as the first but the inclusion of the Three Springs rights is not understood and confusing. The application does not appear to be complete. NOTE that these problems were communicated to Pat Brown by letter and personal meeting in 11/97.

Stanton has viewed that the second application is not valid and the requested change of name and push for processing involves the first application. I was not so sure after looking over the file today so I called McFadden. He indicated that Pat Brown has been hired by the city and him to get this thing going. I asked which application we should be advertising and he indicated he assumed the one Pat Brown filed. I asked about the Three Springs water and he did not know about that. He didn't understand. I asked if he had reviewed the transfer and he said he hadn't. He suggested I contact Pat Brown. I called Pat Brown but he is not available until tomorrow.

Conclusion: It appears to me the transfer by Brown is not properly filed. If we are supposed to advertise something it should be the second transfer but it needs to be clarified and properly filed. I don't exactly know what to communicate to Mr. Norwood at this juncture. Still at issue is the other side of the picture involving the Big Springs rights which still appear to me to need to also be transferred since the use of the right is being modified by exchange of shares.

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No:

8018952

Date:

Time: 3/22/1996

11:49:22

Received

From: BILLINGSLEY CREEK RANCH

Type of Payment	Program A cct	Amount
APP. FOR TRANSFER	64106 229 21 1155	100.00
CHECK	19594	
Total		\$ 100.00

Region: SOUTHERN

Signature: J. P. Stanton

transferred to City of Hagerman 11-12-97 J. P. Stanton
IDWR



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 25, 1997

Patrick D Brown
Hepworth, Lezamiz & Hohnhorst
PO Box 389
Twin Falls, ID
83303

RE: Application for Transfer of Water Right, City of Hagerman

Dear Mr. Brown;

I March of 1996, Billingsley Creek Ranch filed an application for a water transfer to change the place of use, nature of use and period of use for License 36-02465. This right, which is diverted from Potter Springs, is used for municipal purposes by the City of Hagerman. This source is now contaminated and not suitable for drinking water, so the City has been trying to trade this right to the Ranch for irrigation purposes. In turn, the Ranch would convey some of its irrigation right in Big Springs (36-00022) to the City. The City would then use the extra shares in the Big Springs Water Users Association for municipal purposes.

This process requires that two water transfers be approved by this Department. The Ranch has recently assigned its application to the City. We have still not received an application from the Big Springs WUA, which must apply to change the nature of use of a portion of their right from irrigation to municipal use. This change MUST be approved by IDWR through the transfer process as specified in Sec 42-222(1) of the Idaho Code. Last year I prepared an application for the Big Springs folks, which I gave to Mr. Lemmon. To date, they have not submitted their application. As this is a water trade, both applications should be processed together. Since we not received the second application, we have held the Ranch (now the City) application since it was originally filed. I have spoken to both parties numerous times on this matter, but it remains unresolved.

We received a new application for transfer from your office last Friday, in the name of the City AND the Ranch. Since you signed the application, it is not valid without a power of attorney from



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

both parties. If the applicants' names had been separated by AND/OR, a power of attorney from either party would be sufficient. If the second application is supposed to replace the original one, we need something in writing to indicate this.

I am very puzzled by the inclusion of 36-11060 and 15462 in the second application. These rights, which are under contention in the SRBA, apparently have nothing to do with the City's water problem. They are diverted from Three Springs, not Potter Springs, but the application says that they will now be diverted from Potter Springs; I do not believe that this is Donnie McFadden's intention, however. If these rights are to be included in this transfer, their place of use needs to be shown in Item 1.B.5.

With regard to 36-02465, the second application shows a priority date of 1896 for this right. But the correct priority is 1-18-1961, according to the Special Master's Recommendation signed by Mr. Dolan.

Also with regard to Part 1.B.1. of the second application, the proposed dates of the irrigation season need to be listed (the application only says "irrigation season". The standard season for that area, while still under contention in the SRBA, has historically been March 15 to November 15.

Part 3 of the second application needs to be completed.

I do not plan to take further action on this matter until the application from Big Springs is received in this office. If you wish to discuss this matter, feel free to contact me.

Regards,

James E. Stanton
Sr. Water Resource Agent

cc: Donnie McFadden
City of Hagerman
Big Springs Water Users Assn.
Steve Clelland, IDWR

L A W O F F I C E S

*Hepworth, Lezamiz
& Hohnhorst*

- Established 1952 -

November 19, 1997

HAND DELIVERED

RECEIVED

NOV 19 1997

Department of Water Resources
Southern Region

TWIN FALLS OFFICE

John C. Hepworth
John T. Lezamiz
John C. Hohnhorst
Jeffrey J. Hepworth
Penelope Parker**
Eileen A. McDevitt*
Patrick D. Brown

Wm. L. Nungester
of Counsel

BOISE OFFICE

J. Charles Hepworth*
John J. Janis

*Member CA Bar
**Member UT Bar

Idaho Dept. of Water Resources
1341 Fillmore, Suite 200
Twin Falls, ID 83301

RE: City of Hagerman Application for Transfer
 Our File No. 96-1-071

Dear IDWR:

Enclosed please find an Application for Transfer of Water Right for City of Hagerman and Billingsley Creek Ranch. The appropriate filing fees for this application have been paid as shown on the receipt attached.

If you have any questions or concerns, please feel free to contact Patrick Brown.

Very truly yours,

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED

By: LeAnn McMillan
LeAnn McMillan, Legal Assistant

Ilm
Enclosures
/1119IDWR.Ilm

HLH
Chartered

TWIN FALLS OFFICE
208-734-7510
Blick Building
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID 83303-0389
FAX-208-734-4115

Boise Office
208-343-7510
537 West Bannock
P.O. Box 2582
Boise, ID 83701-2582
FAX: 208-342-2927

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant City of Hagerman & Billingsley Creek Ranch Phone 734-7510Post Office address P.O. Box 158 Hagerman, Idaho 83332**A. PURPOSE OF TRANSFER**

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other Right #36-02465

2. Describe the reason for the proposed changes This right to water from Potter Springs for municipal use is being traded for shares in Big Springs Water Users Association in order to consolidate the municipal supply, avoid drinking water contamination problems & otherwise economize. The transfer will not effect anyone because Big Springs shares are currently used but will no longer be used for the purposes & places to which this Potter Springs right is proposed to be transferred.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-02465</u>	<u>1/17/1896</u>	<u>4.0 cfs</u>	<u>irrigation</u>	<u>irrigation to season</u>
<u>36-11060</u>	<u>1/17/1896</u>	<u>4.0 (12 AF)</u>	<u>recreation/rec.storage</u>	<u>1/1 to 12/31</u>
<u>36-15462</u>	<u>1/17/1896</u>	<u>4.0</u>	<u>fish propagation</u>	<u>1/1 to 12/31</u>
				to _____

2. Total amount of water being transferred 4.0 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Potter Springs tributary to Billingsley Creek

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	SW	19	7S	14E	Gooding	Potter Springs

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	13E	24	40	36	36	31													
7S	13E	24													20	38	39	30	
7S	14E	19						15	6				12						

Total acres 303

PART 1

6. General Information:

a. Description of diversion system collection box & pipe from springsb. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X 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:

Because the land on which the Potter Springs water is used for municipal purposes will be served by shares to be acquired in Big Springs Water Users Association if the transfer is approved, there will be no change

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 19 _____

MICROFILMED
JUN 02 1998

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to See attached Recommendation for Partial Decree, dated
9/29/97
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

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

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purpose:

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

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

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

9. Describe any other water rights used for the same purpose as described above Big Springs Water User Assoc.
shares under right #s 36-00022 & 36-00023, and municipal right #36-08715

10. 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 _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

See Attached Map.

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)
_____)

SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 36-02465

007 OCT -1 11:54

DISTRICT COURT - SRBA
TWIN FALLS CO, IDAHO

NAME & ADDRESS: CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332

SOURCE: POTTER SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS

PRIORITY DATE: 01/18/1961

POINT OF DIVERSION: T07S R14E S19 SESESW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
MUNICIPAL		01-01 12-31	4.00 CFS

PLACE OF USE:	MUNICIPAL	Within GOODING County		
	T07S R13E S14	NENE	NWNE	SWNE
		S23	SESW	SENE
			SESE	NESW
			NENE	NWSE
				NENW

PLACE OF USE IS LANDS WITHIN CITY LIMITS OF HAGERMAN AND
LANDS IN THE VICINITY OF HAGERMAN WITHIN THE PLACE OF USE LISTED
ABOVE.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00022 & 36-15168
IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1063 ACRES IN
A SINGLE IRRIGATION SEASON.

DATED: 9.29.97


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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

PAGE 1
APR-30-1997

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)
_____)

SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 36-15462

NAME & ADDRESS: BILLINGSLEY CREEK RANCH
2726 S 1050 E
HAGERMAN ID 83332

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 36-00046 AND 36-11060 IS
LIMITED TO A COMBINED DIVERSION RATE OF 3.50 CFS FROM 04-01 TO
09-30 AND TO A COMBINED DIVERSION RATE OF 4.00 CFS FOR THE
REMAINDER OF THE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 36-11060 IS LIMITED TO A
COMBINED DIVERSION RATE OF 4.00 CFS DURING THE NON-IRRIGATION
SEASON.

PRIORITY DATE:

2/17/1896
~~02/18/1896~~

POINT OF DIVERSION: T07S R14E S30 SENW Within GOODING County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
FISH PROPAGATION
FISH PROPAGATION

PERIOD OF USE
04-01 09-30
10-01 03-31

QUANTITY
3.5 CFS
4.00 CFS

PLACE OF USE: FISH PROPAGATION Within GOODING County
T07S R14E S24 NESE

FISH PROPAGATION
SAME AS OTHER USE

DATED:

BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

)
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SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 36-11060

NAME & ADDRESS: BILLINGSLEY CREEK RANCH
2726 S 1050 E
HAGERMAN ID 83332

SOURCE: THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS
1476.0 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 36-00046 AND 36-15462 IS
LIMITED TO A COMBINED DIVERSION RATE OF 3.50 CFS FROM 04-01 TO
09-30 AND TO A COMBINED DIVERISON RATE OF 4.00 CFS FOR THE
REMAINDER OF THE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 36-15462 IS LIMITED TO A
COMBINED DIVERSION RATE OF 4.00 CFS DURING THE NON-IRRIGATION
SEASON.

STORAGE CAPACITY 12 AF.

PRIORITY DATE:

2/17/1996
~~02/18/1996~~

POINT OF DIVERSION: T07S R14E S30

SENW

Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
RECREATION
RECREATION
RECREATION STORAGE

PERIOD OF USE
04-01 09-30
10-01 03-31
01-01 12-31

QUANTITY
3.5 CFS
4.00 CFS
1476.0 AFY

PLACE OF USE:

RECREATION
T07S R14E S24

Within GOODING County
NESE

RECREATION
SAME AS OTHER USE

RECREATION STORAGE
T07S R14E S24

Within GOODING County
NESE

DATED:

BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

FEB-12-'88 SUN 13:18

10:10 AM SOUTH

TEL NO:

1098 P05



REPRODUCTION OF PHOTO

THE SO. CO.

100-2-1015

AGREEMENT TO EXCHANGE WATER

This agreement is entered into between the City of Hagerman ("City") and Billingsley Creek Ranch/Donnie McFadden ("Ranch") on this 6th day of November, 1997. In exchange for the consideration stated in this agreement the parties understand and agree to the following:

1. The City is the owner of water right number 36-02465 from Potter Springs which is more particularly described under the recommendation of the right attached as Exhibit "A" and incorporated into this agreement.
2. The City also owns the pipeline and delivery system for right number 36-02465 from Potter Springs to the City.
3. The Ranch is owner of 159 shares of stock in Big Springs Water Users Association as is evidenced by Stock Certificate No. 246, which is attached as Exhibit "B" and incorporated into this agreement.
4. The City agrees to acquire and the Ranch agrees to sell 107 shares of the Big Springs Water Users Association stock identified in Certificate No. 246 to the City. In exchange, the Ranch agrees to acquire and the City agrees to sell right number 36-02465 and the delivery pipe on the Ranch's property to the Ranch. In order to accommodate and finalize this sale and exchange, the City and the Ranch agree to cooperate and take all necessary steps in order to facilitate such transfer and exchange. The City agrees to and has passed Ordinance No. 944 allowing it to exchange the Potter Springs water right for the Big Springs water shares. The Ranch, similarly has taken all steps to obtain authority and enter into this agreement and exchange its Big Springs water shares for the Potter Springs right.
5. The City and Ranch agree that for purposes of filing a transfer application with the Idaho Department of Water Resources in order to obtain approval for the transfer and exchange of water, the City shall be considered the owner of the Potter Springs right and the Ranch shall be considered to have acquired an option to purchase the right in exchange for the Big Springs shares cited above, which interest and option

AGREEMENT TO EXCHANGE WATER - 1

MICROFILMED

JAN 17 1998

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shall be contingent upon obtaining final approval from the Idaho Department of Water Resources for the transfer. In the event a transfer is not finally approved by the State of Idaho Department of Water Resources, this agreement shall expire and all interest in the Potter Springs right acquired by the Ranch through this agreement shall revert to the City. All interest in the 107 shares acquired by the City through this agreement shall revert to the Ranch.

6. Between now and the time any final approval of the transfer application to be filed with the Idaho Department of Water Resources shall be pending, the City agrees to allow the Ranch to use the Potter Springs right and the Ranch agrees to allow the City to use the Big Springs Water Shares, provided that any such use shall be authorized only if written consent for such use is obtained from the other party.

7. The City and Ranch agree to execute all papers and documents needed to accommodate the transfer of water rights and water shares and to deliver such rights and shares to the opposing party. This obligation includes the obligation to cooperate in obtaining all transfers, approvals from the Idaho Department of Water Resources, Big Springs Water Association and any other entity from whom approval is required to finalize this exchange. It includes the obligation to execute and finalize the exchange upon receiving final approval of any application for transfer and other approvals.

8. The City and Ranch agree to bear and pay the expenses of obtaining approvals for the transfer of the Potter Springs water right and other such approvals in equal proportions, each paying one-half.

9. The City and Ranch agree that each has entered into this transaction on the basis, not of representations, warranties, guarantees or descriptions made by the other party concerning the right, shares, value or use which has been or may be made of the Potter Springs right and Big Springs water shares, but based on each one's own reasonable investigation and understanding. Each agrees that the other has been given the opportunity to fully investigate and independently decide to enter into this agreement.

AGREEMENT TO EXCHANGE WATER - 2

104-1-1900

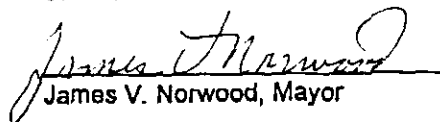
10. The City and Ranch agree the exchange is being made on an "as is" basis with each party agreeing to release and hold harmless the other party from any representations, warranties, unknown conditions, limitations or other restrictions concerning the scope, extent, quality or quantity of property being exchanged, except as specifically represented in this agreement. The parties further agree that the final exchange to occur if and when all approvals have been acquired shall be on the same basis: the shares of Big Springs Water shall be transferred on a "as is" basis, and the Potter Springs right shall be transferred through a Quitclaim Deed.

11. Interpretation. The parties agree that each has had the opportunity to seek advice and negotiate the terms of this written agreement. If disputes concerning the agreement arise between the parties, rules of construction against either party as drafter shall not be applied to this agreement. Neither party shall seek to hold the law firm of Hepworth, Lezamiz & Hohnhorst, liable for any defects, errors or omissions in this agreement. The written agreement constitutes the entire agreement concerning this sale and exchange and all prior agreements are extinguished by the execution of this agreement.

12. Remedies. The parties agree that this agreement provides for the exchange and transfer of unique property. Monetary damages are an inadequate remedy. Therefore, each party agrees not to interpose any defenses in any legal proceedings that may arise concerning the enforcement of this agreement which would bar or hamper specific enforcement of this agreement and/or the final exchange and transfer of the water rights and water shares. Each party agrees that if the other is required to bring legal proceedings to enforce this action, the prevailing party shall be entitled to all costs, expenses and fees incurred in order to obtain the final transfer and exchange.

Dated this ____ day of November, 1997.

CITY OF HAGERMAN


James V. Norwood, Mayor

AGREEMENT TO EXCHANGE WATER - 3

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BILLINGSLEY CREEK RANCH

Donna J. Kadda

ATTEST this 16th day of November, 1997.

By: Barbara G. Gidley
Barbara Gidley, City Clerk

(BCRAGR.N04)lt

H_CH
Chartered
Hepworth,
Lecamis &
Helmhorst

AGREEMENT TO EXCHANGE WATER - 4

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

SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 36-02465

1977 OCT - 1 11:11:54
DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
JL

NAME & ADDRESS: CITY OF HAGERMAN
PO BOX 158
HAGERMAN ID 83332

SOURCE: POTTER SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS

PRIORITY DATE: 01/18/1961

POINT OF DIVERSION: TOWNSHIP 14E S19

RESERV

Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
MUNICIPAL

PERIOD OF USE
01-01 12-31

QUANTITY
4.00 CFS

PLACE OF USE: MUNICIPAL
TOWNSHIP 14E S14

Within GOODING County

NENE

NWNE

SWNE

SENE

SWNW

SENW

SESW

SUSE

SESE

NESE

NUSE

SUSE

S23

NENE

NWNE

SENW

NUNW

PLACE OF USE IS LANDS WITHIN CITY LIMITS OF HAGERMAN AND
LANDS IN THE VICINITY OF HAGERMAN WITHIN THE PLACE OF USE LISTED
ABOVE.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00022 & 36-15168
IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1063 ACRES IN
A SINGLE IRRIGATION SEASON.

DATED: 9-21-97

Terrence A. Dolan
TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

SPECIAL MASTER'S RECOMMENDATION
Water Right 36-02465

PAGE 1
AUG-28-1997

EXHIBIT A

EXHIBIT B

Post-It Fax Note	
To: Mr. Brown	7871
From: Mr. Brown	
Date: 2-9-91	
Pages: 2	
Phone: 837-1736	
Fax: 837-9058	

Incorporated Under the Laws of
The State of Idaho
CAPITAL STOCK \$50,000.00

No. 246 159 SHARES

Big Spring Water Users' Association
HAGERMAN, GOODING COUNTY, IDAHO

This is to certify that Billingsley Creek Ranch is the owner of
one hundred fifty nine — Shares of the Capital Stock of
Big Spring Water Users' Association

transferable only on the books of the Corporation by the holder hereof in person or by
Attorney, upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said corporation has caused this Certificate to be signed by its duly author-
ized officers and to be sealed with the Seal of the Corporation this 22 day of February
A. D. 1995

Cliff Johnson Secretary
Cliff Johnson President

This is water represented by this Certificate is based on District Court
Judicial Records, done at Chambers in Shoshone County, Idaho,
June 27th, 19th, recorded in Book 1, Civil Judgments of said County, on
page 128.

This is to certify that the above is based on District Court
Records in the County of Shoshone, Lincoln County, Idaho.
June 27th 1995 - recorded in Book 1, Civil Judgments of said County, on
page 129

No. 246

Incorporated Under the Laws of
The State of Idaho
CAPITAL STOCK \$60,000.00

159 SHARES

Big Spring Water Users' Association

HAGERMAN, GOODING COUNTY, IDAHO

This is to certify that Billingsley Creek Ranch is the owner of

one hundred fifty nine - Shares of the Capital Stock of

Big Spring Water Users' Association

transferable only on the books of the Corporation by the holder hereof in person or by
Attorney, upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said corporation has caused this Certificate to be signed by its duly author-
ized officers and to be sealed with the Seal of the Corporation this 22 day of February

A. D. 1995

Cliff Jensen Secretary
Harold Jensen President

TO: Glen Saxton

DATE: June 11, 1997

FROM: Jim Stanton

SUBJECT: City of Hagerman Water Usage - Big Springs/Potter Spr.

I became involved in this situation in March of 1996. Hagerman does own a right on Potter Springs (36-02465). They also own shares in the Big Springs Water Users Association right on Big Springs. Billingsley Creek Ranch also owns shares in Big Springs WUA. The idea is that the City will trade its right in Potter Springs for 107 shares of Big Springs water now owned by the Ranch. I prepared two applications for transfer, one for the Ranch and one for the Big Springs WUA. Billingsley Creek Ranch filed its application. I gave the other application to George Lemmon of the WUA, but they never filed their application. These two transfers should be processed together, so I am still holding the Ranch application.

If these two entities have traded water, it is totally illegal in my opinion. The WUA has appealed the Director's SRBA findings, so the transfer that I proposed for them is sort of a compromise between the original decree (which was very poor in describing actual water usage) and the SRBA findings. So this could be holding up action by the WUA - I haven't heard anything on this lately. However, my general conclusion is that the City and the WUA think they are above the law in this matter, and that they can do anything they please without our approval.

During my involvement in this matter, no mention was made of a golf course. The City was supposed to be getting water for municipal use only. With the Snake River moratorium in place, municipal uses can't include large irrigated tracts like parks and golf courses, so this could have some effect on this whole situation. Until the legally-required transfers are approved by IDWR, the Board should not give the City any money whatsoever! If the City won't listen to IDWR, maybe the Board's money will get their attention. It would set a really bad precedent for the Board to grant money to illegal water users - what a mess that would cause!

MEMO

JUN 11 1997

Department of Water Resources
Bureau of Water Quality

To: Idaho Water Resource Board Members
From: Brian W. Patton *B. Patton*
Subject: City of Hagerman
Date: April 29, 1997

*also Merritt —
Plz check into
this matter & seek
transfer off from city
if appropriate.*

*WJH
6-10-97*

The City of Hagerman is applying for a grant in the amount of \$2,500 to conduct a study of their water system and water source.

BACKGROUND

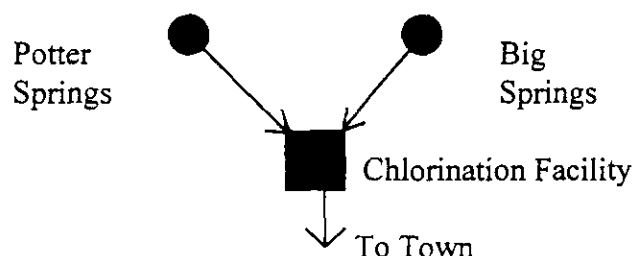
The City of Hagerman is a town of about 600 people located along the Snake River about 30 miles northwest of Twin Falls. Various industries contribute to the town's economy, including agriculture, aquaculture, several nearby Idaho Power hydropower projects, and tourists passing through to see Thousand Springs.

This Board made a \$3,250 grant to Hagerman in 1992 for a preliminary engineering study in preparation for a major water system improvement project. The project, completed in 1995, consisted of a new storage tank, back-up well, and distribution line improvements.

The City's main water source is two springs, Potter Springs and Big Springs. During the course of the previous engineering study and improvement project, the DEQ determined that the water from Potter Springs is under the direct influence of surface water and would require extensive treatment. In order to avoid this expense, the City "traded" its Potter Springs water rights for additional water rights in Big Springs, which was determined not to require the extensive treatment.

PROPOSED WATER SYSTEM STUDY

Potter Springs and Big Springs both fed from different directions into a chlorination facility, which fed into a pipeline that transmitted the water into the City. A diagram is shown:



The City wants to examine this system and determine what modifications to the pipelines and chlorination facility are necessary, since they will no longer be using Potter Springs but have additional water from Big Springs.

The second part of the proposed study is to evaluate the water system impacts of a proposed 300-500 home and golf course development called Western Legends. This development could double Hagerman's population in a short period of time.

CONCLUSION AND RECOMMENDATION

The Big Springs portion of the study is a good project that will assist the City in making full use of their Big Springs water. Staff feels differently about the evaluation of the Western Legends Development. A development of this size would double the City's population and cause tremendous infrastructure difficulties. Staff feels that if the City wants the Western Legends project to go forward, they should require the developer should pay for the water system analysis. According to the City's engineer, J-U-B, they are currently investigating this arrangement on the sewer system analysis.

Staff recommends approval of this grant in the amount of \$2,500 with the condition that it be used on the evaluation of the Big Springs Pipeline, not on the evaluation of the proposed Western Legends development.

Jim -

RECEIVED

SEP 24 1996

Department of Water Resources
Southern Region

Pat Brown will file an amended application for Billingsley Creek Ranch when he files for Big Springs Water Users in the proposed transfer of 107 shares of Big Springs Water Users for the City of Hagerman's right in Potter Springs. When these applications for transfer are filed, please advise if you see any problems.

JUN 02 1998

Thank you
Danni McHadden

T#5208