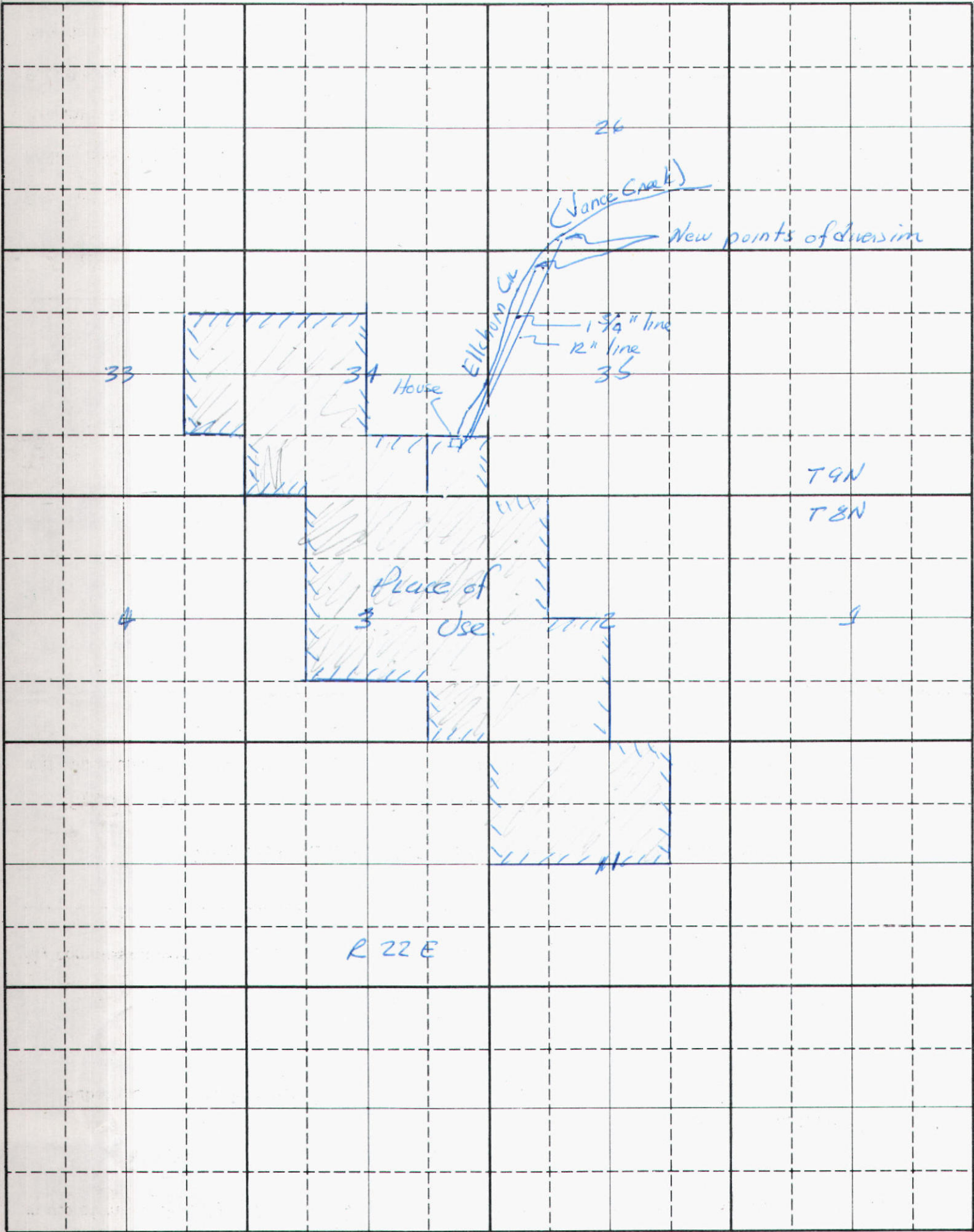


3. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	~~Vance, Clay, Priscilla~~	~~All~~		~~34-0766~~
	~~Longhurst, Ruth, Berg~~			~~"~~
2390	Whitworth, Herb	All		34-0766

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MICROFILMED

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

APPROVED

To Change the Point of Diversion and/or the Place of Use

Name of applicant Herb Spitznagel Phone 520-2255

Post office address Star Line, Whangarei

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: No 482 c, page 173
a. Decree to Chapman, Fred L. & Mary, His & her heirs, heirs of the first part
in case of Chas. C. Chapman vs Chas. C. Chapman
dated 3-15-1923 in U.S. District Ct. Idaho District county of Eastern Washington
(Name of court)
b. License No. _____ issued by the Idaho Department of Water Resources
c. Claim No. _____ on file with the Idaho Department of Water Resources
2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant is in the process of purchasing land from the author
3. Source of water * Elk River creek tributary to _____
4. Date of priority May 1, 1905
5. Water is used for the following purposes:
amount * 411 cfs for Irrigation purposes from May 1 to Oct 31
amount * for Domestic purposes from Jan 1 to Dec 31
amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)
6. Total amount of water under right: a. * _____ cubic feet per second
&/or
b. _____ acre feet per annum
7. Location of original point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 34
Township 4N Range 2E, B M., in Custer County
Additional points of diversion, if any See attached sheet, there are specific map points of diversion
8. Lands irrigated or place of use:

[illegible]

Total number of acres to be irrigated 1526.84 $\frac{1}{2}$

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

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Change in point of diversion
- a. Amount of water to be diverted 6.0 c.f.s. &/or _____ acre feet
- b. Point(s) of diversion NW ¼ NW ¼, Section 35 Township 9N
Range 22E, B.M., Custer County County
Additional points SESW Sec 26, T.9N, R.22E

- c. Description of diverting works Setteling pond with 1 ¾" line, and 12" line @ upper point of diversion
- d. Describe the reasons for applying for a change in the point(s) of diversion Applicant wishes to use the 4th 2 new points of diversion for 1) domestic use (1 ¾" line) 2) Gravity line to sprinkler System (12" line)

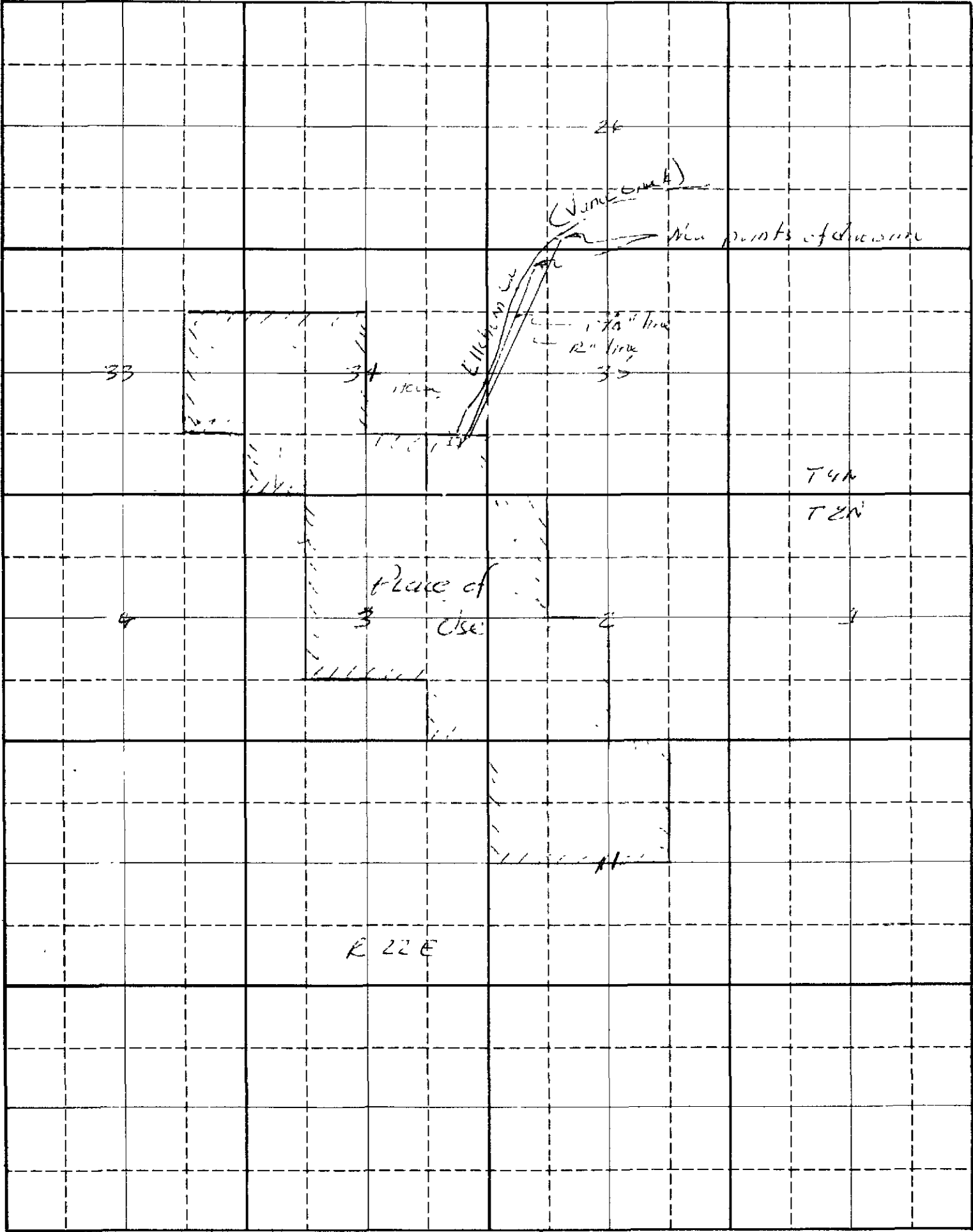
2. Change in place of use No change.

- a. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

3. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

45
4. Remarks * Actual Amount not stated in decree, Elkhorn Creek was
formerly known as Vance Creek in the decree.

I hereby assert that no one will be injured by such change and 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.

Harriet H. Whitworth
(Signature of applicant)

Subscribed and sworn to before me this 15 day of January, 19 80.

Larry D. Silver
(Notary public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 34-0766 and said application is hereby approved, subject to the following limitations and conditions:

(1) A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works. (2) Use of water under this Right is subject to control by the watermaster of State Water District No. 34, Big Lost River. (3) The issuance of this transfer in no way grants any right-of-way or easement across the land of another.

Witness my hand this 10th day of March, 19 80.

Norman C. Young
NORMAN C. YOUNG
Administrator, Resources Admin. Div.

FOR DEPARTMENT USE ONLY

Received by S.M. [initials] Date 1/22/80 Protest filed by _____
Prelim. check by je Fee 120.00 35.
Receipted by KW Date 1/22/80 #15530
Published in Custer Publishing Co. Copies of protest forwarded by _____
Pub. dates 1/31 & 2/7/80 Hearing held by _____ Date _____
Watermaster recommendation requested on _____ Recommended for approval denial
_____ rec'd. _____ by EMC jim

IN EQUITY NO. 222

DECREE

IN THE UNITED STATES DISTRICT COURT, IN

AND FOR THE DISTRICT OF IDAHO, EASTERN

DIVISION

THE UTAH CONSTRUCTION COMPANY, a corporation, Plaintiff,

vs.

John F. Abbott, William Adams, A. P. Adair, Esther L. Adair (successor in interest of A. P. Adair, Eugene A. Ahern, Andreas Aikele (or A. Aiken), Calvin S. Allen, Frank A. Alleh, Gladys Allen, L. C. Allen, Richard Roe Alson, George L. Ambrose, Charles B. Anderson, Francis G. Anderson (or Francis C. Anderson, F. Gus Anderson (or F. G. Anderson or Gus Anderson,) H. W. Anderson, Hyrum Anderson, James E. Anderson, Jas. Earl Anderson, J. L. Anderson, James P. Anderson, Josephine Anderson, J. Wesley Anderson, Jos. W. Anderson (or J. W. Anderson), N. A. Anderson, Niels R. Anderson, Peter C. Anderson (or P. C. Anderson), S. W. Anderson, W. W. Anderson, Louis Andreason (or Lewis Andreson), H. W. Angelo (or Wallace Angelo), Frank Anthony, Marie L. Anthony, Arco Townsite Company, an unincorporated Association; Eleazer Asay, Ernest W. Asay, Emma M. Ashton, Margaretta S. Askew, Anna Atha (or Annie Atha), Ivan J. Atwood, J. H. Augustine.

Mrs. Hannah Babcock (or Mrs. Albern Babcock, A. Rowley Babcock (or R. Babcock), William Babcock (now deceased), Jaacob F. Baird, Bank of Nyssa, an Oregon Banking corporation; John L. Bardsley, Josie Bardsley, Jerome K. Bartlett (or J. K. Bartlett), A. H. Bascom, E. W. Bascom, Pete Basick, Harlow Bassett (Or H. Bassett), Clara M. Bate, J. M. Bate (or Joseph M. Bate), Ralph Bate, E. J. Bates, Leslie Bates, Erin Beal (or Aron Beal) or C. Beal, Eldon E. Beck; J. W. Beck and John Doe (Or John Pingree) and Richard Roe (or F. S. Lack,) as statutory trustees of Beck Land/Livestock Company, a defunct Idaho Corporation; William Beck, Beck Land and Livestock Company, an Idaho corporation; A. W. Bell, Lee Bell, John C. Bell, J. L. Bell, George Bennett (or George Bennetts), James Bennetts, F. S. Bernard, John Bernard (successor in part to New World Life Insurance Company); Gus Bertsch, Agnes T. Best (or Agnes Best), Harold C. Best (or Harold Best), Alexander Beverland, Francis Beverland (successor in interest of James Beverland), George Beverland, Effie Beverland (or Mrs. George Beverland), James Beverland, as executor of the estate of Charles Beverland, deceased; James Beverland, Joana Beverland, Henry Bews (or Harry Bews), Peter Bidegain, Lota C. Billings, Elizabeth Bills, John L. Bills, Norman Bills, Ole Bills, Albert F. Bischoff (or A. F. Bischoff), Lewis A. Bitton (or John Doe Britton), Zina Bitton (or Zina Britton), B. Bjornson (or B. Bjornsen), Blackfoot City National Bank, an Idaho Banking corporation (successor in interest to Heber G. Johnson); Charles H. Black, Mary E. Black, Nils S. Bladh (successor in interest of Ole Bills), John L. Blosser (or John L. Blasser), Henry Blattner, Lulu E. Bliss, Phillip R. Bliss, Arthur L. Bodine, John J. Bodine, Oscar Bodine, William T. Bodine, Joseph A. Boillin, Rhoda Boling, Rachael Boone, Wm. A. Boone, David S. Boyack (or D. Boycock or David D. Boycock, Jr.), Sylvanus Boyack (or S. Boycock), Mary E. Boyd, Robert G. Boyd (successor in interest of Charles H. Rampton), I. W. Boyer, Elizabeth Bradshaw (now deceased), George Bradshaw, John Bradshaw, Pearl Bradshaw, William Bradshaw, William Bradshaw, as administrator of the estate of Elizabeth Bradshaw, deceased (substituted for Elizabeth Bradshaw deceased); Francis Braithwaite, R. F. Braithwaite (or Robert Braithwaite), William F. Braithwaite, H. C. Brake, William H. Brashear, H. T. Brengman, Charles Brown, Edna Brown, Edna E. Brown, as executrix of the estate of Martin W. Brown, deceased (substituted for

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Clay Vance, Priscilla Vance,
Murray Longhurst and Ruth
Berg Longhurst, as their
interests may appear.

- (a) ✓ 1875-June 1 ✓ 3.2 c.f.s.
✓ 1887-June 1 ✓ 2.4 c.f.s.
✓ 1875-June 1 ✓ 2.0 c.f.s.
✓ 1888-June 1 ✓ 1.2 c.f.s.
✓ 1898-June 1 ✓ 2.4 c.f.s.

To be diverted from Big Lost River
through the Chilly ditch having its
point of diversion in the Southwest
quarter of Section 1, Township 8 North,
Range 21 East, B. M., for the irriga-
tion of the following described lands,
to-wit:

The Southeast quarter of the Northeast
quarter, Northeast quarter of the
Southeast quarter of Section 33, and
the South half of the Northwest quarter,
Southwest quarter, South half of the
Southeast quarter of Section 34, all in
Township 9 North, Range 22 East, B.M.,
and Lot 4, Southwest quarter of the
Northwest quarter, Southwest quarter of
Section 2, and lots 1, 2 and 3 and the
Southeast quarter of the Northwest
quarter, South half of the Northeast
quarter, East half of the Southeast
quarter, Northwest quarter of the
Southeast quarter and the Northeast
quarter of the Southwest quarter of
Section 3, the Northwest quarter and
the West half of the Northeast quarter
of Section 11, all in Township 8 North,
Range 22 East, B. M., and

- (b) ✓ 1902-April 15 ✓ 4.0 c.f.s.
✓ 1906-June 30 ✓ 1.6 c.f.s.
✓ 1902-April 1 ✓ 0.8 c.f.s.
✓ 1902-April 1 ✓ 6.4 c.f.s.
✓ 1912-April 1 ✓ 1.6 c.f.s.
✓ 1907-May 8 ✓ 1.3 c.f.s.
✓ 1912-April 1 ✓ 1.6 c.f.s.

To be diverted from Big Lost River
through the Longhurst ditch having its
point of diversion in the Southeast
quarter of Section 32, Township 9 North,
Range 22 East, B. M., for the irriga-
tion of the land last above described.

- (c) ✓ 1885-May 1 ✓ All of
Vance Creek.

To be diverted from Vance Creek through
a private ditch having its point of di-
version on the land constituting the
place of use of said water, for the irri-
gation of, and domestic use on the land
last above described.

No. 482.

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

1, MARGARET PARKS

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

consecutive weeks, commencing with the issue dated JAN 31, 1980 and ending with the issue dated FEB 7, 1980.

Margaret Parks

Subscribed and sworn to before me this 11 day of February, 1980.

Notary Public, residing at Challis, Idaho. My commission expires on

Feb 30, 1983.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 34-0708

Notice is hereby given that Herb Whitworth, Mackay, Idaho, has applied to the Department of Water Resources for a change in the points of diversion of the waters of Elkhorn Creek tributary to sinks. The right sought to be changed is evidenced by decree to Clay Vance, et. al. in Case of Utah Construction vs. John Abbott, dated March 15, 1923 in U.S. District Court and is recorded as follows:

AMOUNT: Actual amount not stated in Decree.

PRIORITY: May 1, 1885

POINT OF DIVERSION: SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, Twp. 9N, Rge. 22E, Custer County.

The water is used to irrigate 1527 acres from May 1 to October 15 within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 34, Twp. 9N, Rge. 22E, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3; W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 11, Twp. 8N, Rge. 22E, B.M. and for domestic purposes from Jan. 1 to Dec. 31.

TO BE CHANGED AS FOLLOWS:

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, Twp. 9N, Rge. 22E, and in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26, Twp. 9N, Rge. 22E, B.M., Custer County.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before February 18, 1980.

C. STEPHEN ALLRED

Director

Published in the Challis Messenger on 1/31 and 2/07/1980.

RECEIVED

FEB 13 1980

Department of Water Resources
Eastern District Office

MICROFILMED

June 3, 1980

U.S.B.L.M.
Federal Bldg. Box 042
Boise, Idaho 83720

Attn: Vincent Strobel
Chief, Branch of L. & M. Operations

RE: I-16442 (943)

Dear Mr. Strobel:

Enclosed are copies of water rights 34-0766 and 34-7238 for use in evaluating the easement request in the name of Herb Whitworth.

Sincerely,

DAVID R. TUTTILL JR., P. E.
Supervisor, Water Allocation Section

cc:Herb Whitworth

Enclosures

DRT:jg

March 11, 1980

Herb Whitworth
Star Route
Mackay, Idaho 83251

Dear Mr. Whitworth,

RE: Transfer of Water Right No. 34-0766

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 2390). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:mr

Enclosure

MILK

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: JC

1. Right number 482 c Applicant Whitworth
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ ^{N/A} Change point of diversion ☒ Add diversion point(s) ☒ ^{N/A} Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☐ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☒ ^{N/A} Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments This transfer further identifies
the number of acres irrigated under this right
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☐ Yes ☐ No
If yes, what district? 34 - Big Lost River

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 2/4/80 Received on 2/13/80
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* Correction Little 01, 05, 011 (34, Big Lost R.)

4. By Ernest Carlson Date 2/22/80

John 3/6/80 use above conditions
*All uses within Watermaster Districts require special conditions.

RECEIVED

Identification No. 34-0766

Transfer No. 34-0766

APPLICATION FOR TRANSFER OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Eugene H. Gabert, watermaster of Big Lost River,
of Water District No. #34, County of Butte & Custer, State of Idaho,
whose address is Box 206 Mackay, Idaho 83251,
have read the attached copy of the application for transfer of water right for
Herb Whitworth, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse Application for Transfer and recommend that the State
Reclamation Engineer approve the Transfer subject to the following conditions:

None

OR

B. I do not endorse approval of this Application for Transfer as requested
for the following reasons:

Dated at Mackay, Idaho, this 16 day of February, 19 80.

Eugene H. Gabert
(Signature)

RECEIVED

FEB 19 1980

Department of Water Resources
Butte District Office

February 4, 1980

RE: Application for Transfer No. 34-0766 (Herb Whitworth)

Eugene Gabert
413 Elm
Mackay, ID 83251

Dear Mr. Gabert:

Please find enclosed a copy of the above referenced application and a Watermaster recommendation form. Please review the application and complete the form, returning it to this office on or before February 18, 1980.

Thank you for your cooperation in this matter.

Sincerely,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

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The water is used to irrigate 1527 acres from May 1 to October 15 within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 34; Twp. 9N, Rge. 22E, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3; W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 11, Twp. 8N, Rge. 22E, B.M. and for domestic purposes from Jan. 1 to Dec. 31.

TO BE CHANGED AS FOLLOWS:

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, Twp. 9N, Rge. 22E, and in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26, Twp. 9N, Rge. 22E, B.M., Custer County.

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C. STEPHEN ALLRED

Director

Published in the Custer Publishing Co. on 1/31 and 2/07/1980.

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IDENT. NO. 34-0766

IDENT. NO. 34-0766

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]