

MOUNTAIN SPRINGS RANCH DIVERSIONS
AND ADJACENT DIVERSIONS FROM THE
BIG LOST RIVER AND PARSONS CREEK
September 9, 2003

DRAFT



13122920 MOUNTAIN SPRINGS RANCH 1

13122925 MOUNTAIN SPRINGS RANCH 4

13122205 MOUNTAIN SPRINGS RANCH 3

13122930 MOUNTAIN SPRINGS RANCH 2

13122950 DONAHUE 2

13122230 DONAHUE 1-POD

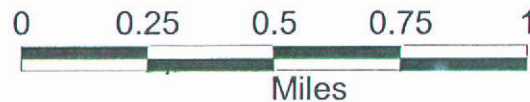
BOX STRUCTURE
FOR DONAHUE 1

13122245 ZOLLINGER 1

13122960 SIMMONS

LEGEND

- ▲ Physical diversion location based on IDWR GPS survey
- Legal point of diversion location based on IDWR water rights database



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OCT 07 2003

SEP 23 2001

2001 SEP 19 PM 12:11

FILED *MS* SRBA
IDAHO

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	)	Water Right 34-00613B
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on December 9, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on June 24, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 1, IDWR Basin 34, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. On July 30, 1999, Claimant Mountain Springs Ranch, LLC- filed an objection to the season of use recommendation, but withdrew the objection on April 20, 2001.

THEREFORE, IT IS ORDERED that the period of use element for the irrigation portion of the above-captioned water right is hereby amended and decreed as

PERIOD OF USE 05-01 TO 10-15

The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following

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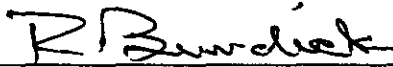
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court a point in time no later than the entry of a final unified decree I.C section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*

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

Dated September 19, 2001



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

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MAY 21 2003

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT IN PARTIAL DECREE was mailed on September 19, 2001, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
HARRIET A. HENSLEY
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-4543

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

~~MOUNTAIN SPRINGS RANCH LLC~~
~~5550 BARTON FLAT RD~~
~~MACKAY, ID 83251~~
Phone: 208-588-2805

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT ROAD
MACKAY, ID 83251
Phone: 208-588-3110

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MAY 21 2002

Letitia Messick
Deputy Clerk

IDAHO DEPARTMENT OF WATER RESOURCES
PREFIX/SPLIT QUERY

DATE: 09/07/99

TIME: 09:06:17

PAGE: 1

WATER RIGHT NO.	NAME	OWNER	PRIORITY	DATE	STG/STS	SOURCE	USE DESC	SYSTEM
34-00613	PARSONS, ROBERT	C	11/01/1898	D/	BIG LOST RIVER	IRR	WR	
34-00613A	JOHNSON, VICTOR	C	11/01/1898	D/	PARSONS CREEK	P DECR	WR	
	CHURN DASHER RANCH	C						
	JOHNSON, SCOTT	C						
34-00613B	MOUNTAIN SPRINGS RANCH LLC	C	11/01/1898	D/	BIG LOST RIVER	P DECR	WR	
					PARSONS CREEK			
X34-00613B	MOUNTAIN SPRINGS RANCH LLC	C	11/01/1898	D/	BIG LOST RIVER	IRR	WR	
					PARSONS CREEK			
*34-00613A	JOHNSON, VICTOR	C	11/01/1898	D/	PARSONS CREEK	P DECR	AJ	
	CHURN DASHER RANCH	C						
	JOHNSON, SCOTT	C						
*34-00613B	MOUNTAIN SPRINGS RANCH LLC	C	11/01/1898	D/	BIG LOST RIVER	P DECR	AJ	
					PARSONS CREEK			
A34-00613	SPLIT CLAIM	C	11/01/1898	/Z	BIG LOST RIVER	IRR	AJ	
					SPLIT CLAIM			
A34-00613A	JOHNSON, VICTOR	C	11/01/1898	D/	BIG LOST RIVER	IRR	AJ	
	JOHNSON, SCOTT	C						
	CHURN DASHER RANCH	C						
A34-00613B	SAN FELIPE RANCHES	C	11/01/1898	D/	BIG LOST RIVER	IRR	AJ	
R34-00613A	JOHNSON, VICTOR	C	11/01/1898	D/	PARSONS CREEK	P DECR	AJ	
	CHURN DASHER RANCH	C						
	JOHNSON, SCOTT	C						
R34-00613B	MOUNTAIN SPRINGS RANCH LLC	C	11/01/1898	D/	BIG LOST RIVER	P DECR	AJ	
					PARSONS CREEK			

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4706
WATER RIGHT NO(S). 34-00142/34-00611B/34-00612B
34-00613B/34-10553B

This is to certify that: MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY ID 83251

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 34-00142 :			
IRRIGATION	05/01 to 10/15	2.40 CFS	420.0 AF
Priority: 06/30/1897			
Right No. 34-00611B :			
IRRIGATION	05/01 to 10/15	1.50 CFS	262.5 AF
Priority: 06/01/1882			
Right No. 34-00612B :			
IRRIGATION	05/01 to 10/15	0.80 CFS	140.0 AF
Priority: 06/01/1886			
Right No. 34-00613B :			
IRRIGATION	05/01 to 10/15	0.50 CFS	87.5 AF
Priority: 11/01/1898			
Right No. 34-10553B :			
IRRIGATION	05/01 to 10/15	5.52 CFS	1648.5 AF
Priority: 05/01/1910			
TOTAL:		* 10.72 CFS	* 1648.5 AF

SOURCE

BIG LOST RIVER
PARSONS CREEK

TRIBUTARY OF

SINKS
BIG LOST RIVER

RECORDED
SEP 2 1990
MICROFILMED
MAY 2 2001

TRANSFER NO. 4706
WATER RIGHT NO(S). 34-00142/34-00611B/34-00612B
34-00613B/34-10553B

LOCATION OF POINT(S) OF DIVERSION:

SWSESE , Sec. 3, Township 08N, Range 22E
 NENESE , Sec. 11, Township 08N, Range 22E
 NWNESE , Sec. 11, Township 08N, Range 22E
 SWNWSW , Sec. 12, Township 08N, Range 22E
 SWNENW , Sec. 13, Township 08N, Range 22E
 CUSTER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08N	22E	11	NESW 20	SESW 15	NESE 20	
			NWSE 40	SWSE 30	SESE 33	158
		12	SWSW 18			18
		13	NWNW 30	SWNW 40	SENE 23	
			NESW 25	NWSW 30	SESW 30	
			SWSE 17			195
		14	NENE 40	NWNE 10	SENE 30	
			NESE 20			100
Total number of acres irrigated:						** 471

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works form all authorized points of diversion that is acceptable to the watermaster and will provide suitable control of the diversions.
- * 6. The total instantaneous diversion of water from all points of diversion under Transfer 4706 shall not exceed 10.72 cfs.
- ** 7. Right 34-00142 is limited to the irrigation of 120.0 acres in the place of use described above in a single irrigation season.
- ** 8. Right 34-00611B is limited to the irrigation of 75.0 acres in the place of use described above in a single irrigation season.
- ** 9. Right 34-00612B is limited to the irrigation of 40.0 acres in the place of use described above in a single irrigation season.
- ** 10. Right 34-00613B is limited to the irrigation of 25.0 acres in the place of use described above in a single irrigation season.

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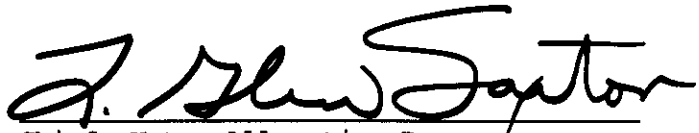
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TRANSFER NO. 4706
WATER RIGHT NO(S). 34-00142/34-00611B/34-00612B
34-00613B/34-10553B

CONDITIONS OF APPROVAL AND REMARKS

- * ** 11. Rights 34-00142, 34-00611B, 34-00612B, 34-00613B and 34-10553B when combined shall not exceed a total diversion rate of 10.72 cfs, a total annual maximum diversion volume of 1648.5 af at the field headgate, and the irrigation of 471.0 acres.
12. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the watermaster for Water District 34.

Dated this 3rd day of September, 1999.


Chief, Water Allocation Bureau

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1999

THIS RIGHT HAS BEEN SUPERCEDED BY A ~~SECRET~~ *Director's Report*

CASE NAME *SRDA - Director's Report for Basin 34*

~~DECREE DATE~~ 

SEE DECREE FILE NO. _____

ALL ACTIONS TAKEN BEYOND THIS POINT HAVE BEEN BASED ON THE
DECREED VERSION OF THIS RIGHT & MAY MODIFY THE DECREED RIGHT.

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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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 34-00613B

1997 DEC -9 AM 9:35

DISTRICT COURT
TWIN FALLS, IDAHO
FILE

NAME & ADDRESS: MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY ID 83251

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS
PARSONS CREEK BIG LOST RIVER

QUANTITY: 0.5 CFS

PRIORITY DATE: 11/01/1898

POINT OF DIVERSION: T08N R22E S03 S11 S12 S13
SWSESE
NENESE
NWNENE
SWNWSW
SWNENW
Within CUSTER County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 0.5 CFS

PLACE OF USE: IRRIGATION Within CUSTER County
T08N R22E S11 NESW 20 SESW 15 NESE 20 NWSE 40
S12 SWSE 30 SESE 33
S13 SWSW 10 SESW 25
NENW 25 NWNW 30 SWNW 40 SENW 25
NESW 25 NWSW 30 SESW 30 SWSE 17
S14 NENE 40 NWNE 10 SENE 30 NESE 20
515 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 515 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00611B, 34-00612B, 34-00142 AND
34-10553.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 25 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE 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

DATE: 09/15/95
PAGE: 6

44-38861-2903



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
 Governor

KARL J. DREHER
 Director

September 11, 2003

Mountain Springs Ranch
 5550 Barton Flat Rd
 Mackay, ID 83251
 Attention: Shane Rosenkrance

RE: **Potential Illegal Points of Diversion**

Dear Mr. Rosenkrance:

The Idaho Department of Water Resources (IDWR) has collected GPS data locating physical diversions from Parsons Creek used by Mountain Springs Ranch. According to our records, two of these locations are not legal points of diversion for your water rights.

According to our records, Mountain Springs Ranch owns five surface water rights with points of diversion downstream of the Chilly Bridge. Water right numbers 34-00142, 34-00611B, 34-00612B, 34-00613B, and 34-10553B have a combined place of use of 471 acres and have five legal points of diversion. Transfer number 4706, which was approved in September 1999, changed the place of use for these water rights and split water right number 34-10553 between Mountain Springs Ranch and Dennie Donahue. This transfer did not change the points of diversion, which are described as follows.

1. PARSONS CREEK SW ¼ SE ¼ SE ¼ Sec. 3, Twp 08N, Rge 22E, B.M.
2. BIG LOST RIVER NE ¼ NE ¼ SE ¼ Sec. 11, Twp 08N, Rge 22E, B.M.
3. BIG LOST RIVER NW ¼ NE ¼ SE ¼ Sec. 11, Twp 08N, Rge 22E, B.M.
4. BIG LOST RIVER SW ¼ NW ¼ SW ¼ Sec. 12, Twp 08N, Rge 22E, B.M.
5. BIG LOST RIVER SW ¼ NE ¼ NW ¼ Sec. 13, Twp 08N, Rge 22E, B.M.

The legal point of diversion locations are shown as purple circles on the attached map. Based on IDWR field visits conducted between October 2002 and June 2003, IDWR has identified four physical diversions for your ranch. These physical diversions are shown as red triangles on the attached map. As illustrated on the map, two of your physical diversions from Parsons Creek (Mountain Springs 2 and Mountain Springs 4) are not legal points of diversion for your water rights.

Spatial Data ID 298205

Spatial Data ID 298203

In order for Mountain Springs Ranch to change the location of your points of diversion for these water rights, you must file an Application for Transfer of Water Right with IDWR, as required by Idaho Code §42-222. A copy of the application form is attached. Additional copies of the application form can be obtained from our website at http://www.idwr.state.id.us/water/rights/water_rights_forms.htm, or from any IDWR office. The application needs to be submitted to the Eastern Region office at the address listed on the last page of the instructions. Please contact the Eastern Region office at 208-525-7161 if you

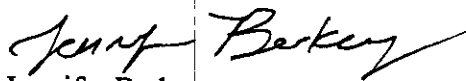
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have questions regarding the application process. I recommend that you apply for the transfer as soon as possible, because diversion of water at the locations of Mountain Springs Ranch 2 and 4 will not be legal until the transfer has been approved by IDWR.

If you believe our records are in error regarding your point of diversion locations, or have questions concerning this notice, please contact me at 208-327-7871.

Respectfully,



Jennifer Berkey
Water Distribution Section

cc: Robert Duke, Water District 34 Watermaster
Ron Carlson, IDWR Eastern Regional Manager

N:/Lost River WD34/Corrspndc/2003/09-09MtnSpringsPNOV.doc

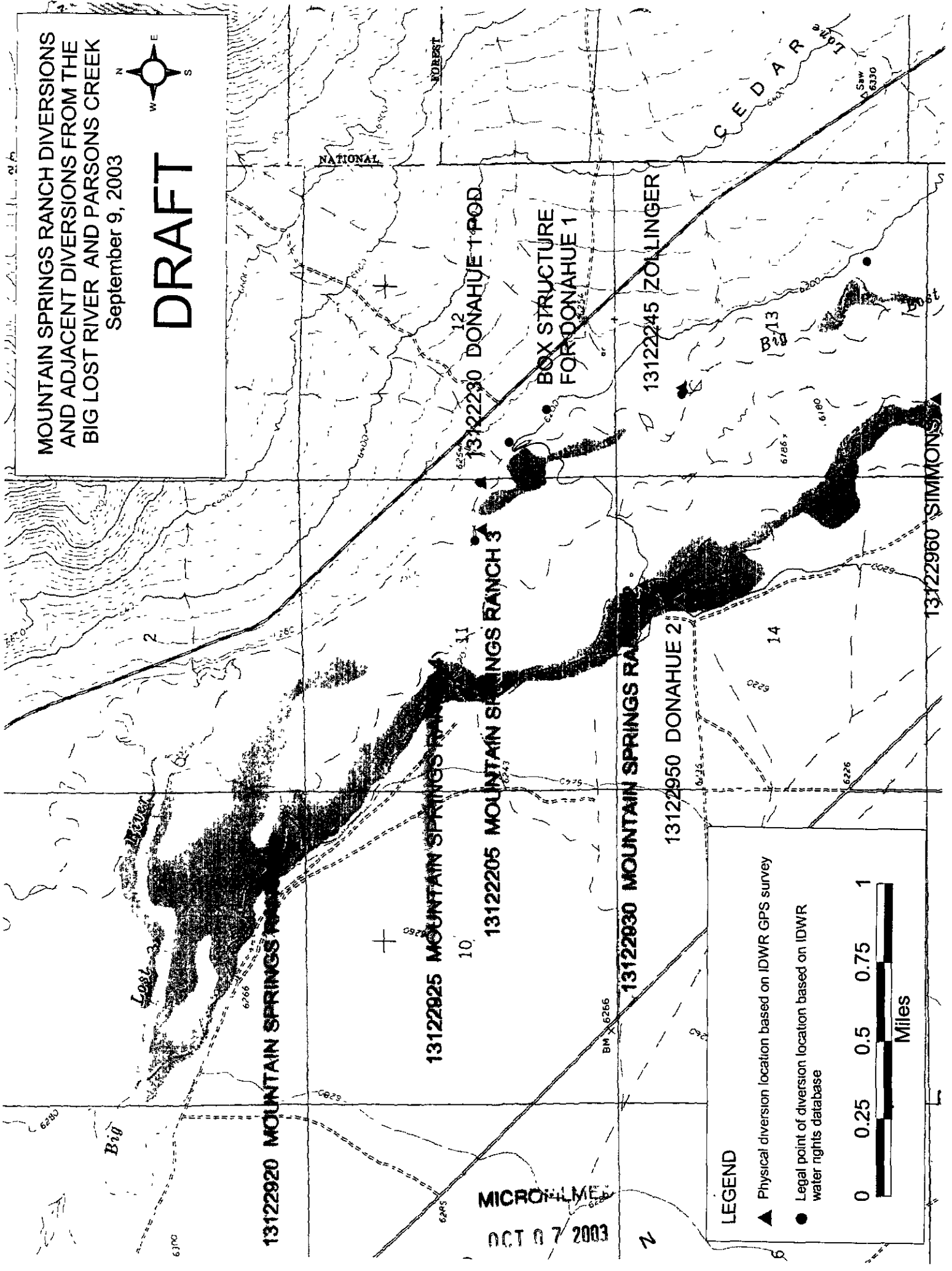
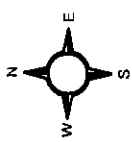
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OCT 6 7 2003

MOUNTAIN SPRINGS RANCH DIVERSIONS
AND ADJACENT DIVERSIONS FROM THE
BIG LOST RIVER AND PARSONS CREEK

September 9, 2003

DRAFT



LEGEND

- ▲ Physical diversion location based on IDWR GPS survey
- Legal point of diversion location based on IDWR water rights database

0 0.25 0.5 0.75 1
Miles

MEMORANDUM

TO: Files 34-00142, 34-00611B, 34-00612B, 34-00613B & 34-10553

FROM: Pam Skaggs²⁸/State Office

SUBJECT: Transfer 4706

DATE: September 3, 1999

Transfer 4706 changes the place of use under all of Rights 34-00142, 34-00611B, 34-00612B and 34-00613B, and a portion of Right 34-10553, splitting this right into Parts A & B.

The applicant owned the entire property and sold 44 acres with 0.88 cfs of Right 34-10553. The transfer proposes to change the permissible place of use under the rest of the rights to reflect the remaining 471 irrigated acres, with a small adjustment moving 8 acres from the SESW to the SWSW of Section 12, T08N, R22E to consolidate the acres

A change of ownership form from the Donahues for the 44 acres will be processed following the approval of this transfer for Right 34-10553A. These rights in the SRBA already reflect a change in ownership to Mountain Springs Ranch LLC as the owner of the 471 irrigated acre parcel of land. Custer County Assessor's office confirmed the chain of ownership of these acres, first to the Donahues and then the remainder to Mountain Spring Ranch LLC

These rights have been resubmitted to the SRBA court in an amended report to address the irrigation season. Other recommended conditions include measuring devices & lockable controlling works, watermaster control, irrigation overlap, permissible place of use limits, combined right limits and standard transfer conditions.

MICROFILMED

MAY 21 2003

SEP 21 1999

MEMORANDUM

TO: FILE 34-00613 B
FROM: PAM SKAGGS
RE: TRANSFER # 4706
DATE: 9-15-95

=====

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
File # 34-00142.

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F 2 7 1999