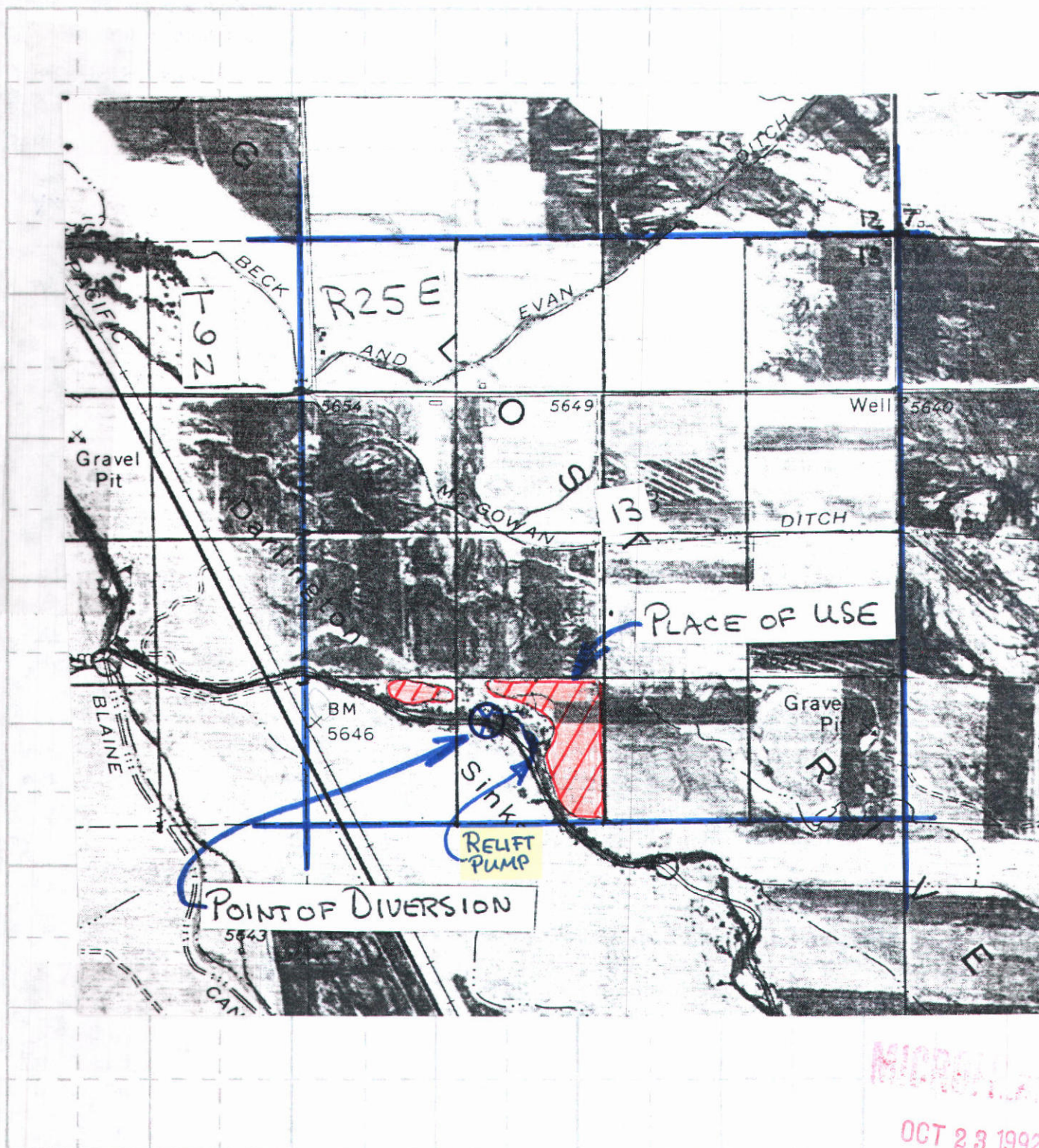


STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- 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.



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

Charles B. Lemon

✓ (a) 1889-May 10, 34 0473 2.4 c.f.s.
(a) 1897-May 10, 34 0474 1.0 c.f.s.

✓ (b) 1886-May 1, 34 0474 0.8 c.f.s.

✓ (c) 1896-July, 34 0475 0.8 c.f.s.

No. 296

D. W. Lemon

✓ 1905-May 1, 34 0476 2.4 c.f.s.

No. 297

John J. Lemon

✓ 1905-May 1, 34 0477 3.2 c.f.s.

No. 298

N. N. Levin

✓ 1899-January 1, 34 0478 1.6 c.f.s.

No. 299

August Lindenman

✓ 1886-September, 34 0479 3.2 c.f.s.
Trans. #2230

No. 300

To be diverted from Big Lost River through the Vanous ditch having its point of diversion in the Southwest quarter of Section 1, Township 6 North, Range 24 East, B. M., for the irrigation of the following described land, to-wit:
The Southeast quarter of Section 8, Township 6 North, Range 25 East, B. M., and

To be diverted from an unnamed spring through a private ditch having its point of diversion on the land constituting the place of use of said water, for the irrigation of the land last above described, and

To be diverted from Big Lost River through the Rodgers ditch having its point of diversion in the Northeast quarter of Section 33, Township 7 North, Range 24 East, B. M., for the irrigation of the following described land, to-wit:

The Northwest quarter of the Northwest quarter of Section 17, Township 6 North, Range 25 East, B.M.

To be diverted from Big Lost River through the Angelo ditch having its point of diversion in the Southwest quarter of Section 10, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land to-wit:

The South half of the Northwest quarter and the North half of the Southwest quarter of Section 13, Township 6 North, Range 25 East, B. M.

To be diverted from Big Lost River through the Lemon & Lemon-Island ditches having their points of diversion in the Southwest quarter of Section 13, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land, to-wit:

The South half of the Southwest quarter of Section 13, and the North half of the Northwest quarter of Section 24, Township 6 North, Range 25 East, B. M.

To be diverted from Big Lost River through the Island Ditch having its point of diversion in the Southeast quarter of Section 4, Township 5 North, Range 26 East, B. M., for the irrigation of the following described land, to-wit:

The North half of the Northwest quarter of Section 22, Township 5 North, Range 26 East, B. M.

To be diverted from Big Lost River through the Beck ditch having its point of diversion in the Northwest quarter of Section 14, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land, to-wit: The Northeast quarter and the Northeast quarter of the Northwest quarter of Section 18, Township 6 North, Range 26 East, B. M.

MICROFILMED

OCT 23 1992

Easton

Page _____ of _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 4007

**APPLICATION FOR TRANSFER OF WATER RIGHT APPROVED
PART 1**

Name of applicant Burdette or Tracy Brunson Phone 588-3347
Post Office address Rt 1 Box 43A Darlington Idaho 83255

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 _____
- 2 Describe the reason for the proposed changes Reduce loss of water in ditch by pumping from River and to be able to deliver water to property. Old ditch from McGowan ditch has been removed.

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>R34-00477</u> | <u>5-1-1905</u> | <u>0.76 cfs</u> | <u>Irrigation</u> | <u>5/1</u> to <u>10/15</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
- 2 Total amount of water being transferred 0.76 cubic feet per second and/or _____ acre-feet per annum
- 3 Source of water Big Lost River tributary to Sinks
- 4 Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec	Twp.	Rge.	County	Local name for diversion
		SE	SW	13	6N	25E	Custer	

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	
6N	25E	13											3	16					19
														</					

Total acres 19

2001

PART 1**6 General Information**

a Description of diversion system DIVERSION Ditch/Old River Channel to pond with relift pump to mainline to laterals with sprinklers

b Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☒ Yes _____ No _____ If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes

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

None

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

34-00477

And said application is hereby APPROVED, subject to the following limitations and conditions
SEE ATTACHED SHEET FOR CONDITIONS OF APPROVAL.

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Witness my hand this

9th

day of

October

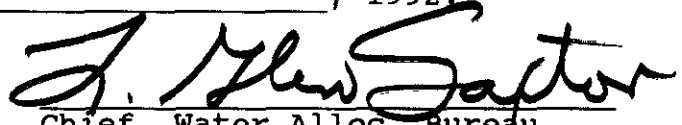
, 19 92

J. New Saylor
CHIEF, WATER ALLOC. BUREAU

CONDITIONS OF APPROVAL
Transfer of Water Rights
No. 34-00477

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 0.02 cfs per acre nor more than 3.5 afa per acre for the lands above.
3. A lockable headgate and measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

Dated this 9th day of October, 1992.


Chief, Water Alloc. Bureau

00728

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 R34-00477 Decreed to _____
 in case of Utah Construction Co vs Abbott
 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 Big Lost River tributary to SINKS

4 Date or priority May 1, 1905

5 Water is used for the following purpose

amount 0.76 cfs for Irrigation purposes from 5/1 to 10/15
 (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 0.76 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
	SW	SE	SW	11	6N	2SE	Custer	Mc Gowan Ditch

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	
6N	2SE	13											3	16					19

Total acres 19

9 Describe any other water rights used for the same purpose as described above Storage rights through

Big Lost River Irrigation District

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

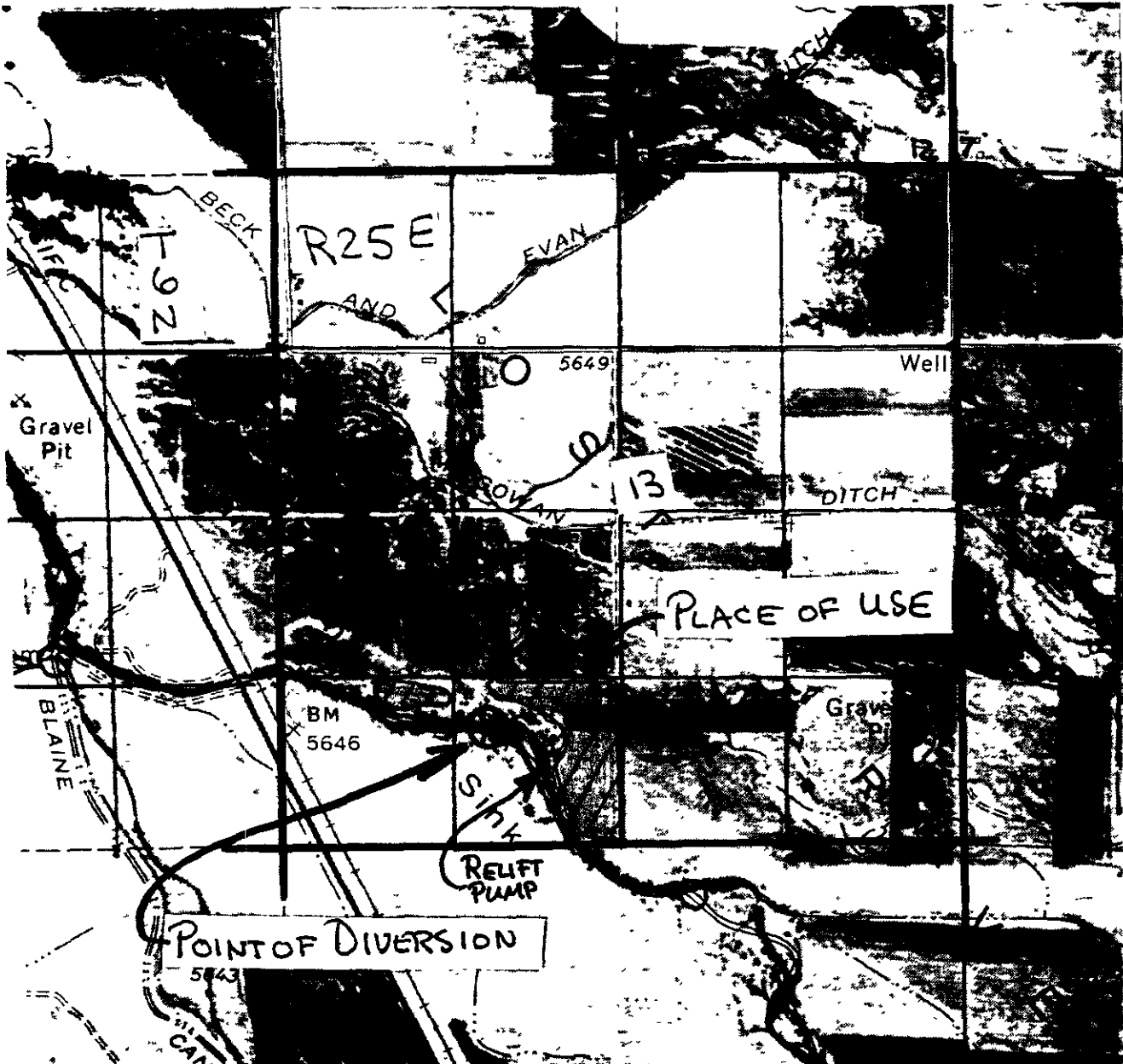
Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

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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.



PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
				_____ to _____
				_____ to _____

2 Quantity and quality of return flows and location of discharge

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

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

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

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 6th day of May, 19 92

BETTY J. THOMPSON, NOTARY PUBLIC

RESIDING AT LEO FALLS, IDAHO
My commission expires
MY COMMISSION EXPIRES: 6-30-94

[Signature]
(Notary Public)

Assisted By Kaw 5-6-92**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by Kaw Date 6 May 92

Protest filed by _____

Prelim check by _____ Fee 50⁰⁰ # E017255Receipted by Kaw Date 6 May 1992Published in Custer Publishing Co.

Copies of protest forwarded by _____

Pub dates 7-9-16-92

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for ☒ approval ☐ denial

_____ rec'd. _____

by [Signature]

Copy of transfer sent to lien holder _____

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AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, 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 July 9 1992 and ending with the issue dated July 16 1992

Margaret Parks

STATE OF IDAHO

COUNTY OF CUSTER

On this 16th day of July in the year of 1992, before me, a Notary Public,

personally appeared Margaret Parks known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Edith M. Park
Notary Public for Idaho
Residing at Challis
My commission expires: 1-21-98

NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT
NO. 34-00477

Notice is hereby given that Burdette or Tracy Brunson, Darlington, ID, has applied to the Department of Water Resources to change point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a Decree and recorded as follows:

Decree No. 34-00477 in case of Utah Construction Co. vs. Abbott.

AMOUNT: .76 cfs

PRIORITY: 5-1-1905

POINT(S) OF DIVERSION:
SWSESW Sec. 11 T6N R25E,
(MCGOWAN DITCH), CUSTER
COUNTY

The water is used from May 1 to October 15 to irrigate 19 acres within the S1/2SW SEC 13 T6N R25E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the SESW Sec 13 T6N R25E, CUSTER COUNTY

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID, 83402, on or before July 27, 1992.

R. Keith Higginson, Director
Pub.: July 9 & 16, 1992.

D E C R E E

Part I

1. That Big Lost River is a stream with a large number of tributaries, having its entire water shed within the counties of Butte and Custer, State of Idaho, said river rising in the Lemhi National Forest in Custer County, Idaho and flowing in a general southeasterly direction through Custer county and Butte County, Idaho and having its terminus in the Lost River Sinks situated in Townships 4 and 5 North of Range 30 East of the Boise Base and Meridian.

That there is hereby drawn within the jurisdiction of this Court for distribution for beneficial uses, under and pursuant to the terms of this decree, all of Big Lost River and its tributaries as above described, and with the exceptions hereinafter provided, are hereby decreed to constitute a single interdependent river system to be administered under the terms of this decree.

2. Subject to such prior rights as are herein decreed in the order of their respective priorities, that is to say such rights as are prior by virtue of this decree, said plaintiff, Utah Construction Company, has the right to divert at its points of diversion hereafter stated and to impound at its reservoir (known as the Mackay reservoir) or in part to divert and in part to impound at said reservoir all the waters of Big Lost River and its tributaries to the extent of Two Thousand Three Hundred (2300) cubic feet per second of time according to the dates of priority hereafter set forth, the water stored in said reservoir to be thereafter released from said reservoir at plaintiff's pleasure through the gates of the Mackay Reservoir Dam and thence down the natural channel of Big Lost River for use at the following points of diversion, to-wit:

(a) In the Northwest quarter of the Northeast quarter of Section 14, Township 6 North, Range 25 East, B. M., at the head of what is known as the Blaine Canal, which said Blaine Canal belongs to and is a part of plaintiff's irrigation system.

(b) In the Northwest quarter of the Northwest quarter of Section 26, Township 4 North, Range 26 East, B. M., at the head of what is known as the Arco

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(Munson)
Canal which belongs to and is a part of plaintiff's said irrigation system.

(c) Or at any other point or points of diversion which may be established by the plaintiff for irrigation, power or other beneficial purposes recognized by law to which plaintiff may devote or dedicate said released stored water by its sale, rental or otherwise.

In its exercise of the rights herein defined the plaintiff may to the extent of its various appropriations as hereinafter decreed, impound in storage and divert the waters of Big Lost River at all times and at all seasons of the year when by so doing it does not interfere with the exercise of any prior rights fixed by this decree and the water released by it from storage may be conveyed through the natural channel of the River and shall be protected under the provisions of this decree for the distribution designated by plaintiff as though kept and conveyed within an artificial channel.

In administering the rights of plaintiff as herein decreed and mentioned the following considerations shall be observed and recognized: It is hereby adjudged and decreed that the natural flow and increment to Big Lost River between what are known as the "A" line gauging stations at the upper end of plaintiff's reservoir and what is known as the 2-B gauge below said reservoir, and located in the Northeast quarter of Section 18, Township 7 North, Range 24 East, B. M., is thirty-four (34) cubic feet per second and in determining what constitutes the natural flow of Big Lost River, with reference to the storing of water by plaintiff in its reservoir and the release of waters therefrom, the water flowing in said Big Lost River as measured by the "A" line gauging stations at the upper end of said reservoir, plus thirty-four (34) cubic feet per second measured at the 2-B gauge aforesaid, shall be deemed the natural flow of said stream at said 2-B gauge, and any amount in excess of such natural flow shall be deemed released stored waters. The return flow of water to the river or the natural increment of the river below said 2-B gauge shall not be deemed released stored waters. In case the gauges constituting said "A" line gauging stations shall be removed from their present location, the Court reserves jurisdiction upon application of any party hereto to determine the gain or loss of the stream between the present location of said "A" line

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gauging stations and the points to which they shall be removed, and upon that basis to readjust the relation between the natural flow of the river at the gauging stations above plaintiff's reservoir and the said 2-B gauge.

In the delivery to plaintiff at the Blaine Canal Diversion of stored waters released during the month of May there shall be deducted to cover channel losses in transit an amount equivalent to an average of 15% of such waters as measured at said 2-B gauge; and of the storage waters released during each month thereafter there shall be deducted to cover such losses, an amount equivalent to 5% of such waters measured at said 2-B gauge.

Between October 1 and October 15 of each calendar year no waters shall be stored by plaintiff in its said reservoir unless the Commissioner or other official charged with the administration of this decree shall in his discretion determine that by reason of weather conditions or other determining factors all the water flowing in Big Lost River is not reasonably necessary to satisfy the prior rights herein decreed. Beginning October 15 of each calendar year and continuing to November 1, plaintiff shall have the right to store in its reservoir such of the waters of Big Lost River at said point as said Commissioner or other official charged with the administration of this decree shall, in his discretion, deem to be not reasonably necessary to satisfy prior rights for irrigation, stock and domestic purposes; up to November 1st of each calendar year said Commissioner or other official shall supply to all the ditches of defendants who are herein decreed rights prior to plaintiff water reasonably required for stock and domestic purposes except in the case of any ditch where such supply would in the opinion of such Commissioner or other official result in unreasonable waste of water.

From and After November 1st, of each calendar year to the beginning of the subsequent irrigation season, to-wit, May 1st, (or such earlier date as said Commissioner or other official may determine water to be necessary for irrigation purposes, but in no event earlier than April 20th), said plaintiff shall have the right to store in its said reservoir all the waters flowing at that point in Big Lost River. Provided, however, that plaintiff shall at no time by closing its gates for storage purposes at said reservoir, reduce the amount of water flowing in Big Lost River to

a quantity less than fifty (50) cubic feet per second of time measured at said 2-B gauge. And the plaintiff's right so to store said water for said period to the extent herein defined is hereby adjudged and decreed to be superior to the rights of any defendant during said period, and such storage and the subsequent use of said stored water by sale, rental or otherwise by said plaintiff will in no way infringe upon any prior right of any of said defendants thereto.

Plaintiff shall not divert at the head of its Blaine Canal any of the natural flow of said Big Lost River between November 1st and the beginning of the subsequent irrigation season.

3. Irrigation rights include the right to divert and use water for irrigation, domestic and culinary purposes and the watering of livestock throughout the irrigation season of each year which is defined as ordinarily that portion of the calendar year which commences on the first day of May and closes on the fifteenth day of October; subject however to certain regulatory powers herein given to the Commissioner or other official charged with the administration of this decree in connection with the storing of water in plaintiff's reservoir, such discretionary power to be exercised in seasons of unusual characteristics during the period from April 20th to May 1st, and during the month of October as set forth in paragraph 2 part 1 hereof.

Each irrigation right herein decreed shall include and imply as a part thereof (subject to plaintiff's right of storage to the extent and during the period herein prescribed), the right to the use of water for domestic and culinary purposes and the watering of livestock during the non-irrigation season.

All rights herein decreed to the plaintiff and the several defendants are decreed for the beneficial uses specified, and none of the parties hereto, or their successors in interest, whether heirs, executors, administrators, successors or assigns, shall have the right to divert any of the waters of said Big Lost River, or any of its tributaries, except for beneficial use, and whenever such use has ceased, such party or parties shall cease to divert, and shall have no right to divert, the said waters, or any part thereof, and each and every of the parties hereto, their servants, attorneys, employes and successors in interest, as aforesaid, are hereby

enjoined and restrained from any and all interference with or diversion or use of the said waters, except in the manner, and to the extent, and for the purposes, provided in this decree, whenever such interference, diversion or use would in any manner interfere with the diversion or use of the water awarded by this decree to any of the other parties to this action.

4. The Court hereby expressly reserves jurisdiction to supervise and enforce the administration of this decree hereafter and from time to time as occasion may require.

In the first instance the administration of this decree shall be left with Lynn Crandall, who is hereby appointed Commissioner for that purpose, and any successor who may be hereafter appointed by the Court. The salary of said Commissioner is hereby fixed at the sum of Three Hundred Twenty-five (\$325.00) Dollars per calendar month, together with his actual and necessary expenses incurred in the discharge of his duties. Said Commissioner is authorized to employ such assistants or water masters as may be necessary. Nothing herein contained shall prevent said Commissioner, if he so desires, from employing water masters elected or appointed for the several water districts of Big Lost River and its tributaries according to the manner prescribed by the statutes of Idaho for the election and appointment of Water Masters; and in case said Commissioner shall appoint said Water Masters as his assistants they shall receive their compensation in the manner provided by the statutes of Idaho with reference to such matters; but nothing herein contained shall require said Commissioner to appoint as his assistants such Water Masters so elected or appointed under the statutes of Idaho, unless, in his opinion, such appointment shall be conducive to the proper administration of this decree and unless so appointed by said Commissioner as his assistants said Water Masters shall have no authority to distribute the waters of Big Lost River or its tributaries while the distribution of the waters thereof shall be under the control of said Commissioner.

The salary and necessary expenses of said Commissioner and his assistants in the administration of this decree shall be borne as follows:

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(a) During the period from November 1st to May 1st, plaintiff shall bear one-half of the expense of administration during said period, and those defendants to whom rights in the waters of Big Lost River are herein decreed and whose points of diversion are below plaintiff's reservoir shall bear the remaining one-half of such expense, said remaining one-half to be apportioned among such defendants in proportion to their respective rights as herein decreed.

(b) During the period from May 1st to November 1st the parties hereto and each of them shall bear the expense of administration incurred during such period pro rata according to the amount of water distributed to each during such period of the preceding year.

Said Commissioner shall, on or before May 1st of each year, prepare a budget covering the estimated expenditure for the ensuing year. After approval of this budget by the Court, said Commissioner shall distribute said estimated expenditures among the various users according to the method above set forth, basing his estimated costs for the months of May to October inclusive, and the amount payable by each water user, upon the amount of water used by each during the same period of the year preceding. Said Commissioner shall notify the parties to whom rights are herein decreed or their successors of the amount charged to each respectively, and shall also notify such parties of the time within which their respective shares or the installments thereof shall be paid to such Commissioner.

The Commissioner shall have authority to refuse to deliver water to any user until such time as such user's share of the expenses as herein provided for is paid.

Subject to the power and duty of this Court to supervise and enforce the administration of this decree from time to time as occasion may require, and to that end to appoint anew its Commissioner for that purpose for which jurisdiction is hereby expressly reserved, the administration of this decree shall at any time the Court deems it proper to discharge said Commissioner, be left with the officials of the State of Idaho charged with the duty of supervising the distribution of the public waters within said state, the costs and expenses of such administration to

be defrayed as provided by the statutes of Idaho. Any party hereto may apply at any time for directions to the Water Master or for the appointment of a Commissioner if necessary to enforce any provision of this decree.

(After the discharge of the Commissioner appointed by the Court the Water Master, Commissioner, or other official charged with the distribution of the waters of Big Lost River and its tributaries subject to this decree need not in the first instance, by reason of the decree, undertake the detailed administration of the waters of the entire portion of the river and tributaries placed under the decree, but only of such section of the main river and such tributaries as he shall be specifically directed to administer. Such administration may be extended upon the application of any party, from time to time, as the irrigation season advances and necessity therefor arises. However, such Water Master, Commissioner or other official shall, after his appointment, have general supervision of the entire river and of the tributary waters, and if called upon to administer the water of any particular tributary he may utilize any agency for the distribution of the waters of such tributary locally selected or agreed upon by the water users from such tributary, and if necessary he may appoint assistants to administer any section of the main river, or any tributary thereof, provided always that any party hereto may invoke the powers of such Water Master, Commissioner or other official to personally direct and supervise the administration of the waters of any section of the river, or of any tributary or tributaries, in strict conformity to the provisions of this decree, both during the irrigation season, and the non-irrigating or winter season, so far as may be necessary to secure to the several parties their rights hereunder, and failing to obtain proper action by such Water Master, Commissioner or other official may apply to the Court for directions in the premises.

5. The parties hereto and their successors in interest shall install and maintain suitable and efficient headgates, controlling works and measuring devices at their respective points of diversion, and all water herein allotted and decreed shall be measured at said points of diversion. Said works and devices shall be built and installed in accordance with plans and specifications to be approved by the official charged with the duty of supervising the distribution of water, (subject to review by

this Court]. All such devices shall be of such design as to accurately register the amount of water diverted, and in the case of ditches diverting fifty or more cubic feet per second, automatic measuring and registering devices shall be installed and maintained. All such headgates, control works and measuring devices and gauges shall at all times be subject to the inspection of either party, and to public officials or water masters having jurisdiction over the distribution and diversion of water and no dam or other obstruction to the natural flow of the stream shall be maintained so as to divert water from the channel of the stream, except through ditches, canals or other works provided with such headgates, control works and measuring devices, and each of the parties hereto shall be perpetually enjoined from diverting from the channel of the stream or its tributaries any water through any ditch, conduit or other devices not provided with such headgates, control works and measuring devices.

In case any user shall fail to install any headgates and measuring or controlling devices as in this decree prescribed within 30 days after the Commissioner or other official in charge of the administration of this decree has notified him so to do, the said Commissioner or other official may install such headgates or measuring devices and charge the expense thereof to such user and said user shall not thereafter be entitled to the use of his water as herein decreed until he has repaid to said Commissioner or other official, the expense of installing said works.

6. During that portion of each irrigation season from the time when on the rising stage of Big Lost River the flow of said river, measured at what is known as the Howell Gauging Station (located in Section 30, Township 8 North, Range 21 East, B. M.), shall reach 750 second feet, until the time when on the falling stage of the river it shall recede to a flow of 300 second feet, measured at the same point, all of the waters of Big Lost River and its tributaries shall be administered as one connected stream, and the respective quantities of water and priorities to the right of the use thereof as herein decreed shall be strictly observed. But at all other times that portion of the waters of Big Lost River and its tributaries, rights to which are herein decreed and which is diverted at points above what are known as the "A" line gauging stations above the Mackay Reservoir, shall be admin-

istered as a separate district and while the provisions of this decree shall govern and determine as between themselves the rights and priorities of those persons diverting waters (other than water for storage purposes) above said "A" line Gauging Stations, the rights of such parties during the period when said section of the stream shall be separately administered shall not be affected by the rights and priorities of any other parties, as herein decreed. Provided, however, that the above provisions fixing the period when said section of upper Big Lost River shall be separately administered are fixed and determined with reference to measurements of said river at said Howell Gauging Station under existing conditions as to diversions from the river and its tributaries above said point, and in case hereafter any additional water shall be diverted above said Howell Gauging Station, then in determining the period during which the section of the river above specified shall be separately administered any such additional diversions above said Howell Gauging Station shall be considered as part of the flow of Big Lost River, measured at said point. (Provided further, that the above provisions regarding the separate administration of said section of the river and its tributaries at certain periods shall apply only to such rights herein decreed, having their points of diversion above said "A" line Gauging Station as are wholly natural flow rights and shall apply in no respect to storage rights. As between all storage rights the priorities and quantitles of water as herein decreed shall at all times be strictly observed, it being hereby decreed that with respect to such storage rights Big Lost River is and shall at all times and season be administered as a connected stream.

7. In the distribution of water under the terms of this decree, that portion of Big Lost River above the Mackay Reservoir commonly known as the "Black^(Book) Channel" having its point of diversion from the main channel in the Northeast quarter of the Northeast quarter of Section 5, Township 8 North, Range 22 East, B. M. shall be considered as a part of the natural channel of the river, but the total amount of water which shall be permitted to flow into said "Black Channel" shall not as long as the river discharge at the Howell Rating Station is less than 1400 second feet, exceed 150 second feet but shall be kept as near said last named amount

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as is practicable in the judgment of the Commissioner or other official charged with the administration of this decree. When the discharge at the Howell Rating Station exceeds 1400 second feet the diversion into said "Black Channel" shall be kept as near as practicable at 200 second feet, but shall not exceed that amount except when there is a surplus above all rights on Big Lost River as herein decreed.

PROVIDED, HOWEVER, That nothing in the foregoing provisions regarding said "Black Channel" shall be construed to modify or enlarge the amount of water to which the users diverting water into said "Black Channel" shall be entitled as set forth in this decree.

PROVIDED FURTHER That the users of water, whose points of diversion are by the provisions of this decree fixed on said "Black Channel", and their respective successors in interest, shall at their own expense under the direction of the Commissioner or other official charged with the administration of this decree provide and maintain a suitable dam and controlling works for the regulation of the flow of the waters in said "Black Channel" as herein provided. Such expense to be pro-rated among said persons according to the respective amount of waters herein decreed to each.

8. In the administration of this decree Rock Springs Creek, Rock Creek, Beda Creek, Corral Creek, Sage Creek, Upper Cedar Creek, Lower Cedar Creek, Dry Creek, sometimes called Cedar Creek, Pete Creek, Willow Creek, Pinto Creek, Lehman Creek, Vance Creek, Grant Creek, and Hamilton Creek shall not be regarded as tributaries of Big Lost River, and while the provisions of this decree shall govern and determine as between themselves the rights and priorities of those persons diverting waters from said respective creeks, the rights of the parties on said separate respective creeks shall not be affected by the rights and priorities of any other parties as herein decreed.

Charles E. Lemon

✓ (a) 1889-May 10, 24 0473 2.4 c.f.s.

To be diverted from Big Lost River through the Vancous ditch having its point of diversion in the Southwest quarter of Section 1, Township 6 North, Range 24 East, B. M., for the irrigation of the following described land, to-wit:

The Southeast quarter of Section 8, Township 6 North, Range 25 East, B. M., and

✓ (b) 1886-May 1, 24 0474 0.8 c.f.s.

To be diverted from an unnamed spring through a private ditch having its point of diversion on the land constituting the place of use of said water, for the irrigation of the land last above described, and

✓ (c) 1896-July 3, 34 0475 0.8 c.f.s.

To be diverted from Big Lost River through the Rodgers ditch having its point of diversion in the Northeast quarter of Section 33, Township 7 North, Range 24 East, B. M., for the irrigation of the following described land, to-wit:

The Northwest quarter of the Northwest quarter of Section 17, Township 6 North, Range 25 East, B.M.

No. 296

D. W. Lemon

✓ 1905-May 1, 34 0476 2.4 c.f.s.

To be diverted from Big Lost River through the Angelo ditch having its point of diversion in the Southwest quarter of Section 10, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land to-wit:

The South half of the Northwest quarter and the North half of the Southwest quarter of Section 13, Township 6 North, Range 25 East, B. M.

No. 297

John J. Lemon

✓ 1905-May 1, 34 0477 3.2 c.f.s.

To be diverted from Big Lost River through the Lemon & Lemon-Island ditches having their points of diversion in the Southwest quarter of Section 13, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land, to-wit:

The South half of the Southwest quarter of Section 13, and the North half of the Northwest quarter of Section 24, Township 6 North, Range 25 East, B. M.

No. 298

N. N. Levin

✓ 1899-January 1, 34 0478 1.6 c.f.s.

To be diverted from Big Lost River through the Island Ditch having its point of diversion in the Southeast quarter of Section 4, Township 5 North, Range 26 East, B. M., for the irrigation of the following described land, to-wit:

The North half of the Northwest quarter of Section 22, Township 5 North, Range 26 East, B. M.

No. 299

August Lindenman

✓ 1886-September 1, 34 0479 3.2 c.f.s.

To be diverted from Big Lost River through the Beck ditch having its point of diversion in the Northwest quarter of Section 14, Township 6 North, Range 25 East, B. M., for the irrigation of the following described land, to-wit: The Northeast quarter and the Northeast quarter of the Northwest quarter of Section 18, Township 6 North, Range 26 East, B. M.

No. 300

Trans. #2230

Eastern

Done in open Court this 21st day of
October, 1925.

(SIGNED) FRANK S. DIETRICH
United States District Judge.

Endorsed, Filed March 15, 1923
W. D. McReynolds, Clerk
By Theo. J. Turner, Deputy

UNITED STATES OF AMERICA, }
District of Idaho, } ss.

I, W. D. McREYNOLDS, Clerk of the United States District Court for the District of Idaho, do hereby certify that the foregoing copy of the Final Decree and Amendments in the case of Utah Construction Company vs. J. F. Abbott, et al, No. 222, Eastern Division, has been by me compared with the original, and that it is a correct transcript therefrom and of the whole of such originals as the same appear of record and on file at my office and in my custody.

In testimony whereof, I have set my hand and affixed the seal of said Court in said District this 23rd day of April, 1927.

W D McReynolds
Clerk.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

October 14, 1992

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

BURDETTE BRUNSON
TRACY BRUNSON
RT 1 BOX 43A
DARLINGTON ID 83255

RE: Transfer of Water Right No. 34-00477

Dear Water Right Holders:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 4007). Be sure to note any conditions of approval as listed on the second page.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jim Johnson', followed by a horizontal line.

JIM JOHNSON
Water Rights Supervisor

JJ:cz

Enclosure

MEMORANDUM

TO: File 34-00477

FROM: Sharla

DATE: October 6, 1992

RE: Transfer Review (No. 4007)

The above referenced transfer proposes to change the point of diversion under this right. The SRBA claim has recently been recommended for 0.76 cfs for the irrigation of the 19 acres. With the change in the point of diversion, the 50% conveyance loss is no longer a consideration. The transfer approval will reflect a cut in the diversion rate back to an inch/acre.

Advertising was completed correctly. The transfer can be approved with the following conditions:

R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 34.

R30 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre for the lands above.

A lockable headgate and measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

007 3 1992

INTERDEPARTMENT MEMO

DATE: August 18, 1992

FROM: ERNEST CARLSEN

RE: APPLICATION FOR TRANSFER 34-00477
Burdette Brunson

PURPOSE

Upgrade irrigation system to accommodate sprinkler irrigation by abandoning ditch conveyance system and pumping directly from Big Lost River.

FINDINGS

- > Use of right was verified by field inspection and recommended in the Director's Report for the Big Lost River. Historically practice was to flood irrigate 19 acres with water transported through McGowen Ditch and open field ditches. Recommended rate of diversion included an allowance for 50% conveyance loss.
- > Proposed change in point of diversion (POD) would eliminate conveyance loss in ditches but would be subject to shrink in the two miles of river between the old POD and the proposed POD.
- > Watermaster for Water District 34 indicated when there is sufficient natural flow to deliver this right the river does flow past the proposed POD and during these periods shrink would likely be around 10%.

CONCLUSIONS

- > The rate of diversion for this right can be reduced to account for shrink in the river and still allow for delivery of 0.02 cfs/ac (0.38 cfs) at the field headgate.
- > The change will help to conserve water and will neither result in an expansion of the right nor cause injury to existing rights.

RECOMMENDATION/CONDITIONS

The transfer should be granted with the following conditions:

- ✓ > Delivery of this right is subject to regulation by the Watermaster for Water District 34, Big Lost River.
- ✓ > A lockable headgate and measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
- > The rate of diversion for this right shall not exceed 0.38 cfs at the new point of diversion.
- > This right is limited to an annual consumptive use volume of 47.5 acre feet.

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Page 2
Brunson

ADJUDICATION FOLLOW-UP

Once transfer is approved it may be necessary to initiate an action with the district court changing the Director's Report to reflect the new point of diversion and reduced rate of diversion.

1 3 22

CONVERSATION MEMORANDUM

DATE: AUGUST 18, 1991

FILE: TRANSFER APPLICATION 34-00477, BRUNSON

NAME OF PARTY: DOUG ROSENKRANCE, WM DISTRICT 34

EMPLOYEE: ERIC VERNER

RE: RECOMMENDATION FOR CONVEYANCE LOSS WITH THIS TRANSFER

=====

The above transfer proposes to relocate the point of diversion of the water right approximately 2 miles down stream on the Big Lost River. I called to ask Doug whether a reduction of the right to cover conveyance loss should be assessed. Doug said that this reach of the river is in the upper part of the Darlington sinks, a losing reach of the river. He said when the 1905 rights are on, this reach losses at least 10%.

I might recommend reducing the right by 10% to cover this conveyance loss but this diversion rate on 19 acres allows 0.036 cfs/acre, which for sprinkler irrigation appears to be excessive. It appears that by changing the point of diversion and not taking the right through the canal system, there is a significant reduction in conveyance loss. Perhaps a better recommendation would be to reduce the diversion rate to 0.02 cfs/acre with a 10% conveyance loss or 0.422 CFS ($\{0.02 \times 19\} / 0.90$). The SRBA recommendation for this right allowed up to a 50% conveyance loss, which now by the transfer appears to be unnecessary.

46.1 CFS

5-11-92
6-24-92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: DPH

1. Right number 134-00477 Applicant Burdette or Tracy Brunson
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☐ 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. ☐ 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. N/A
 - h. ☒ Check for expansion in use of right. Comments N/A
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) Source in Mackay Res.
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 34 - Doug Rosenkrantz Send Copy to
Big Lost River Irry.
c/o Rita Lundy

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 7-7-92 Received on 7-10-92
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* SEE MEMO OF ERNEST CARLSEN
DATED 8/18/92
4. By RDC Date 8/31/92

DOF 7-27-92

APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 34-00422

RECEIVED

JUL 10 1992

Department of Water Resources
Eastern District Office

WATER DISTRICT 34

WATERMASTER Doug Rosenkranz

DATE: 7/9/92

COMMENTS: _____

☒ I do endorse approval of this change.

☐ I do not endorse approval of this change.

I recommend the following conditions of approval:

Doug Rosenkranz
Watermaster

7/9/92

07-Jul-1992

DOUGLAS ROSENKRANCE
WATER DIST 34
RT 1 BOX 24
MACKAY ID 83251

RE: Application No. 34-00477, 34-02336A, 34-02328B, 34-7560,

Dear Watermaster:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance, please feel free to contact us.

Thank you for your cooperation in this matter.

Respectfully submitted,


Harold Jones
Water Rights Supervisor

HJ/rb
Enclosure

OCT 28 1992

01-Jul-1992

BURDETTE OR TRACY BRUNSON
RT 1 BOX 43A
DARLINGTON ID 83255

RE: Application No. R34-00477

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the CUSTER PUBLISHING CO on 7-9 & 16-92. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the 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.

If the application is not protested, it will be forwarded to our state office in about five weeks. 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. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

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

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. 34-00477

Notice is hereby given that Burdette or Tracy Brunson, Darlington, ID, has applied to the Department of Water Resources to change point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a Decree and recorded as follows:

Decree No. 34-00477 in case of Utah Construction Co. vs. Abbott.

AMOUNT: .76 cfs PRIORITY: 5-1-1905

POINT(S) OF DIVERSION: SWSESW SEC 11 T6N R25E, (MCGOWAN DITCH), CUSTER COUNTY

The water is used from May 1 to October 15 to irrigate 19 acres within the S1/2SW SEC 13 T6N R25E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the SESW Sec 13 T6N R25E, CUSTER COUNTY

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID, 83402, on or before July 27, 1992.

R. Keith Higginson
Director

Published in the Custer Publishing Co on July 9 & 16, 1992.

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