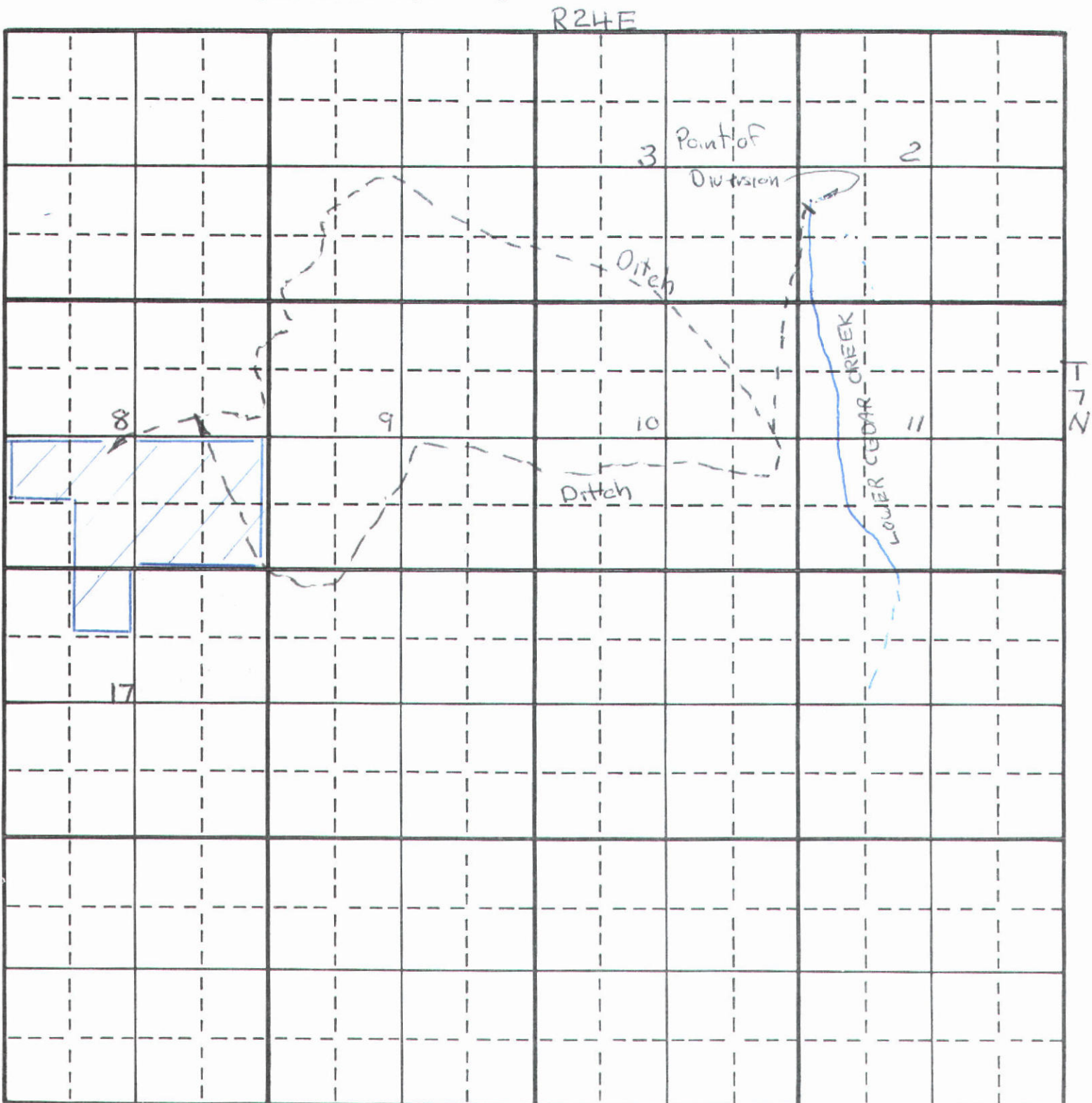


c. Describe the lands place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7N	24E	8									40	40		40	40	40	40	40	280
		17					40												40

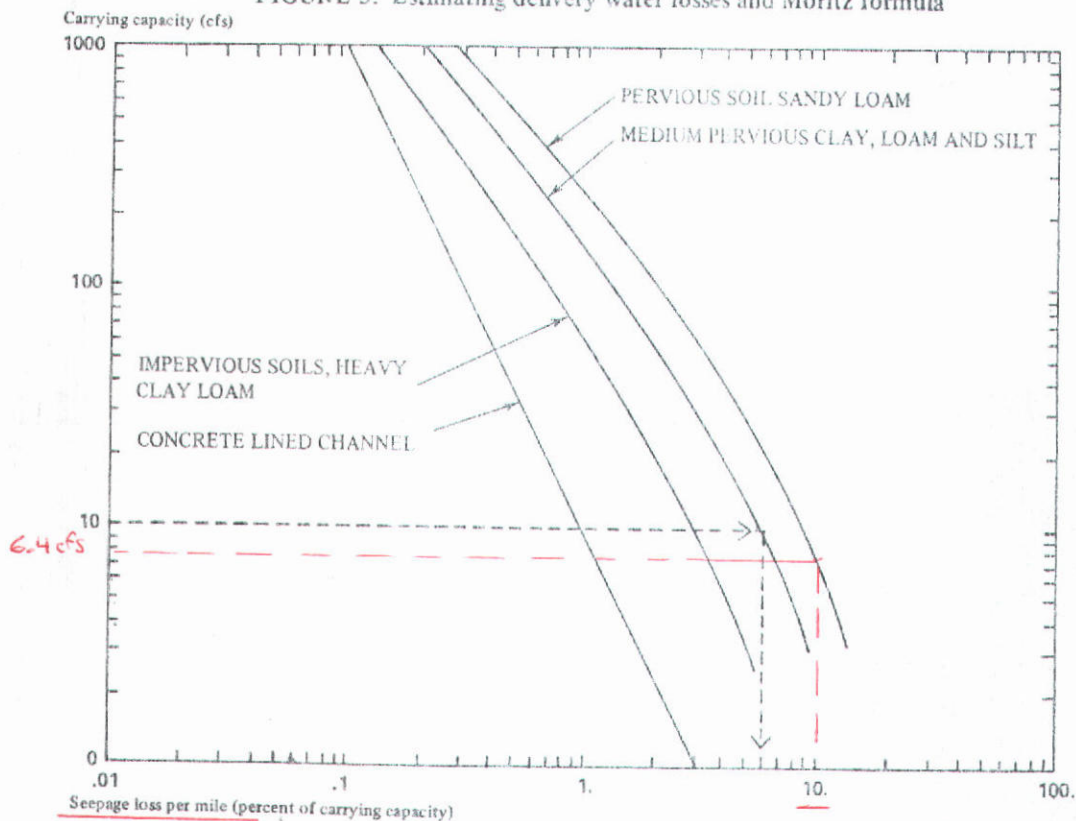
Total number of acres to be irrigated 320

4. Describe any other water rights used for the same purpose as described above. 34-0808
*see remarks
5. 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.

FIGURE 5. Estimating delivery water losses and Moritz formula



To estimate delivery water losses during transportation, the Moritz Formula may be used. A simpler method is illustrated in Figure 5.

In the example, a broken horizontal line was drawn from the amount of the water the channel carries (10 cfs) to where it intersects the line representing the material lining the channel (medium pervious clay). A vertical line drawn from that point shows a 6 percent loss of water.

Moritz Formula

$$\text{Seepage loss} = \frac{0.2C}{V} \sqrt{\frac{Q}{V}}$$

- S = Seepage loss (cfs per miles of canal)
- Q = Discharge of canal (cfs)
- V = Mean velocity of flow (feet per second)
- C = Depth of water lost per day (feet)

P.O. $n = \frac{Q_B}{Q_A}$ $Q_B = Q_A - n Q_A$

$$Q_B = Q_A - n Q_A$$

$$Q_B = Q_A (1 - n)$$

$$Q_A = \frac{Q_B}{1 - n}$$

RECEIVED

Transfer No. 2759

NOV 13 1982

Water Right No.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT

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

Name of applicant Reed M. Nielsen Phone 588-2642

Post Office address Box 216, Mackay, Idaho 83251

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

34-0884; 0885; 0886

a. Decree No. Decreed to C.V. Hansen (Name)

in case of Utah Construction vs Abbott et al

dated in Oct. 1, 1925 in U.S. Dist. Court county of Butte & Custer (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 Right has not been used on original place of use, but rather the Nielson family has used it on their ground. Therefore a purchase agreement was reached.

3. Source of water Lower Cedar Creek tributary to sinks

4. Date of priority Jan. 1, 1915 (34-0886) Jan. 1, 1913 (34-0884)
Jan. 1, 1914 (34-0885)

5. Water is used for the following purposes:

Not specified

34-0884 amount 3.2cfs for Irrigation purposes from to

34-0885 amount 1.6cfs for Irrigation purposes from to

34-0886 amount 1.6cfs for Irrigation purposes from to (month/day — both dates inclusive)

6. Total amount of water under right a. 6.4 cubic feet per second
&/or
b. acre feet per annum

7. Location of original point of diversion is NW 1/4 of SW 1/4 of Section 2

Township 7N Range 24E, B.M. in Custer County

Additional points of diversion, if any

8. Lands irrigated or place of use.

TWP	RANGE	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	
7N	25E	28	*	*	*	*	*			*	*	*							*

*acreage not listed in decree

Total number of acres to be irrigated *

9. Describe any other water rights used for the same purpose as described above #34-2487
T2416/34-0044 & 0045 & 34-2016

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D. REMARKS

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 _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____ Township _____
Range _____, B M, _____ County
- Additional points _____

3. Place of use.

[illegible]

Total number of acres to be irrigated _____

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

1. General Information
- a. Amount of water to be diverted 6.4 c.f.s. &/or _____ acre feet
- b. Description of diverting works Wood diversion dam thru headgate to 11 miles of ditches
- c. Describe the reasons for the proposed changes Applicant can make better use of water than current right holder. Right has changed hands via agreement attached

2. Change in point of diversion No Change

Point of diversion _____ ¼ _____ ¼, Section _____ Township _____

Range _____, B.M., _____ County

Additional points _____

- ### 3. Change in place of use

- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X____. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

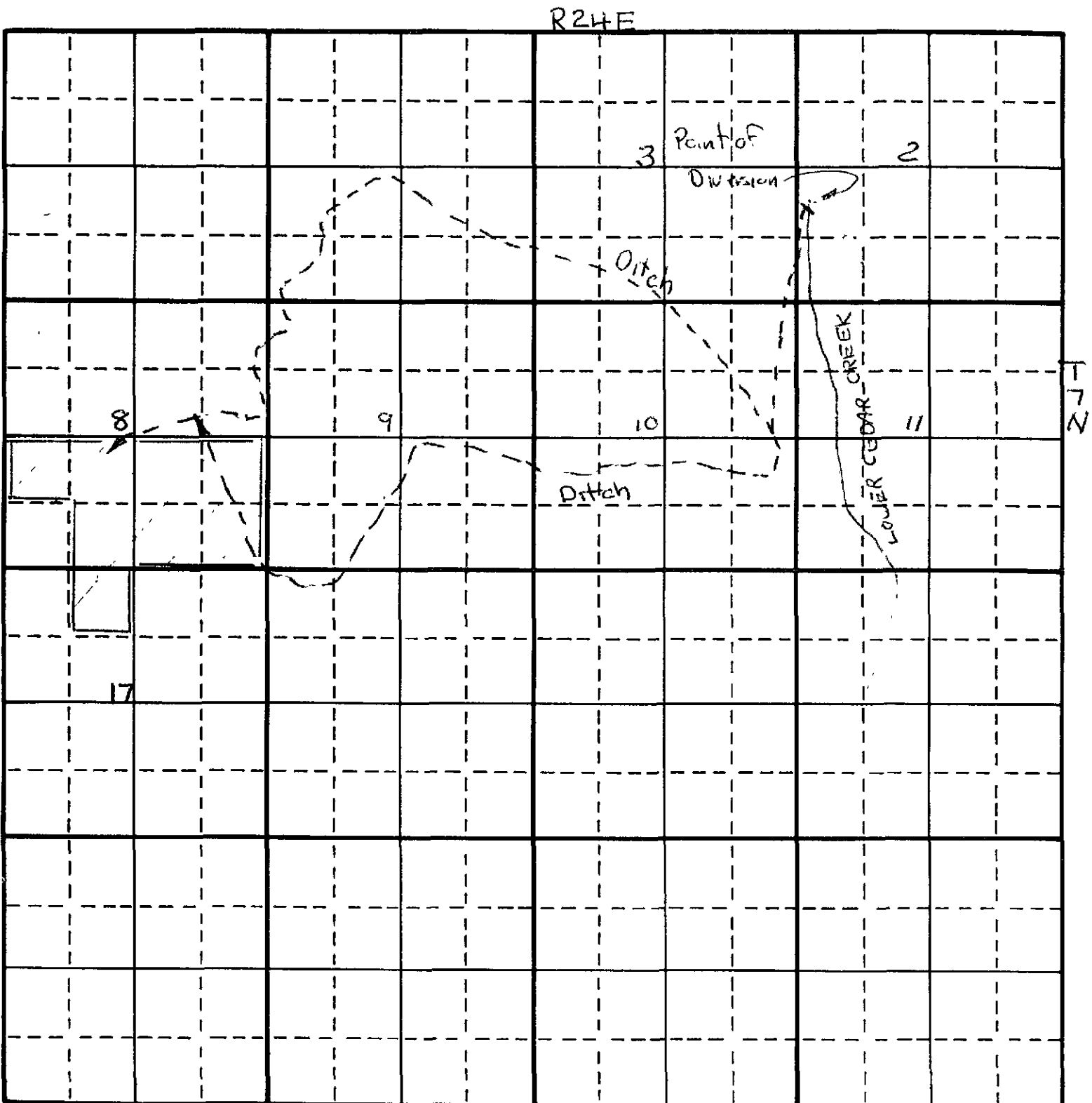
None

c. Describe the lands and 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	
7N	24E	8									40	40			40	40	40	40	280
		17					40												40

Total number of acres to be irrigated 320

- 4 Describe any other water rights used for the same purpose as described above. 34-0808
*see remarks
- 5 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

D REMARKS

Applicant feels attached Moritz formula chart for delivery water losses establishes that 45-50% of water diverted at PD is lost via 5 miles of ditches to the place of use. Soil is of an extremely pervious type.

The combination of this right and 34-0808 would deliver no more than 0.02cfs/acre at the place of use.

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 willfull misrepresentations made in this application may result in voiding its approval.

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 14 day of October, 1982

[Signature]
(Notary Public)

My commission expires Life time

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 34-0884, 34-0885 and 34-0886 and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.
2. Use of water under these rights is subject to control by the watermaster of State Water District No. 34, Big Lost River.
3. Water diverted under this transfer shall not exceed 0.02 cfs per acre at the field headgate when combined with all other rights appurtenant to the lands identified herein.

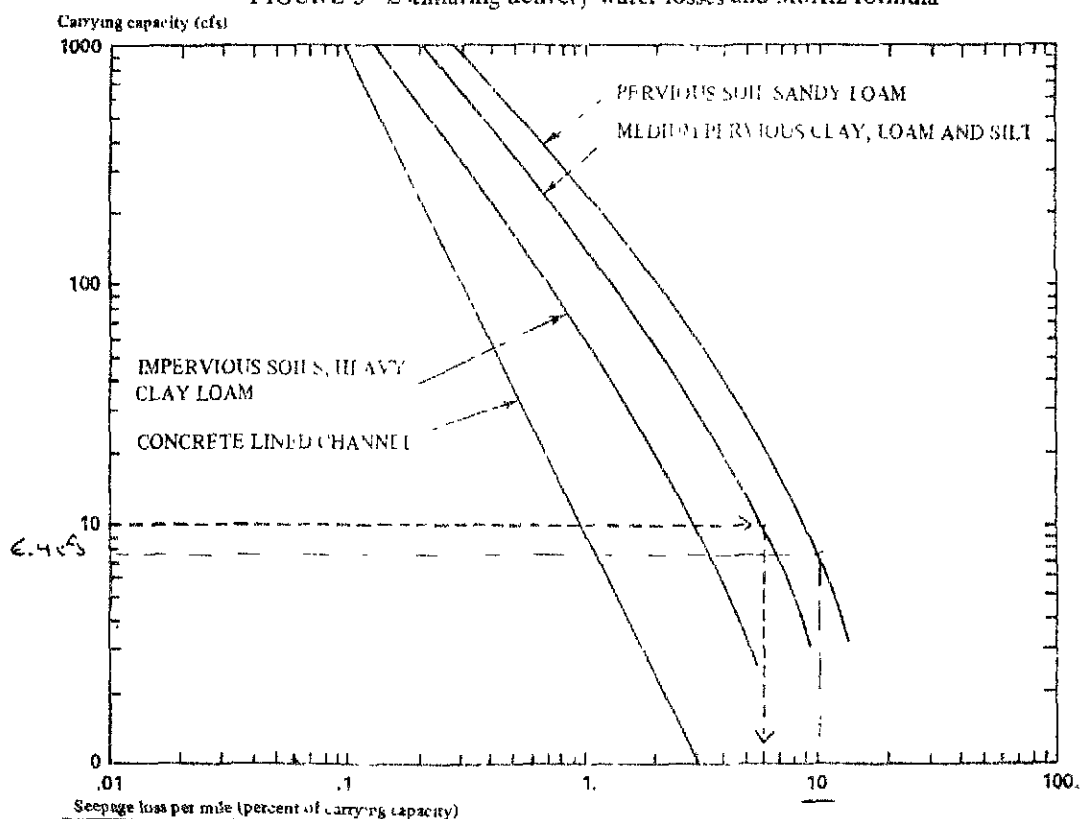
Witness my hand this 10th day of May, 1983

[Signature]
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Assist. by HWJ CW 11-18-82
Received by SRC Date 11-10-82 Protest filed by _____
Prelim. check by HWJ Fee 50⁰⁰
Received by BP Date 11-22-82 #22591
Published in Custer County Publ. Co. Copies of protest forwarded by _____
Pub dates 12/9 & 12/16/82 Hearing held by _____ Date _____
Watermaster recommendation requested on 12-6-82 Recommended for approval denial
_____ rec'd 1-11-83 by Ernest Carlson Jim DRA

FIGURE 5 Estimating delivery water losses and Moritz formula



To estimate delivery water losses during transportation, the Moritz Formula may be used. A simpler method is illustrated in Figure 5.

In the example, a broken horizontal line was drawn from the amount of the water the channel carries (10 cfs) to where it intersects the line representing the material lining the channel (medium pervious clay). A vertical line drawn from that point shows a 6 percent loss of water.

Moritz Formula

$$\text{Seepage loss} = \frac{0.2C}{V} \sqrt{\frac{Q}{V}}$$

- S - Seepage loss (cfs per miles of canal)
- Q - Discharge of canal (cfs)
- V - Mean velocity of flow (feet per second)
- C - Depth of water lost per day (feet)

NOV 19 1982
Department of Resources
Eastern District Office

I, Reed "Z" Asay, of Mackay, Idaho, hereby sell to Reed L. Anderson, also of Mackay, Idaho, his assigns and heirs, for the sum of \$5.00 (five dollars), the water rights described as

34-0884 Decree Lower Cedar Creek 1-01-1913 5.2 cfs NW, E2NW
34-0885 Decree Lower Cedar Creek 1-01-1914 1.6 cfs NW, Sec. 20
34-0886 Decree Lower Cedar Creek 1-01-1915 1.6 cfs NW, R25N

IN WITNESS to this, I have set my hand and seal this 6 day of August, 1982.

Reed Z Asay
Reed "Z" Asay

STATE OF IDAHO)
County of Custer) ss.

On this 6 day of August, 1982, before me, Rita M. Lundy, a Notary Public in and for said State, personally appeared Reed Z. Asay, known to me to be the person whose name is subscribed to the above document, and acknowledged to me that he executed the same.

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

Rita M. Lundy
Notary Public residing at Mackay, Idaho

My Commission Expires: Sept. 15/1983

Federal Land Bank Association of Blackfoot

10 West Judicial, P O Box 10
Blackfoot, Idaho 83221
Telephone (208) 785-0820
RICHARDE SPENCER *Manager*



June 30, 1982

Mr. Reed Z. Asay
Mackay, Idaho 83251

Re: FLB 129690-2

Dear Mr. Asay:

In accordance with our telephone conversation with Mrs. Asay today, I am enclosing herewith a copy of the Water Rights that we have secured in your Federal Land Bank mortgage that are as follows:

Evidence of 40 M.I. 6/1/1883 decree and 125 M.T. 2/3/1903
decree from Pass Creek;
20 M.I. 6/1/1902 decree from Jensen Springs;
120 M.I. Permit #16637 from Crows Nest; and
10 c.f.s. 8/25/66 permit #33110 from a deep well.

You will note that the above described water right contains no reference to any water from Cedar Creek. We therefore would have no objections to the sale of Cedar Creek water by yourself to a third party.

If you have any further questions concerning your loan account or the content of this letter, please contact me.

Yours very truly,

Richard E. Spencer

Richard E. Spencer
Manager

RES:jm



THIS INDENTURE, Made this 20th day of December
in the year of our Lord one thousand nine hundred and fifty-six, between
ELEAZER ASAY and LA PREAL ASAY, husband and wife,

of , County of Custer , State of Idaho
the parties of the first part, and

REED Z. ASAY and LYNETTE B. ASAY,

of , County of Custer , State of Idaho
the parties of the second part, WITNESSETH:

That the said parties of the first part, for and in consideration of the sum of

TEN DOLLARS and other good and valuable consideration DOLLARS,
lawful money of the United States of America, to them in hand paid by the said
parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained
and sold, and by these presents do grant, bargain, sell, convey, and confirm unto the paid parties
of the second part, and to their heirs and assigns forever, all the following described real estate,
situated in , County of Custer and Butte , State of Idaho, to-wit:

The $N\frac{1}{2}$ of the $NW\frac{1}{4}$; and the $NW\frac{1}{4}$ of the $NE\frac{1}{2}$ of Section 27,
Township 7 North, Range 25 East of the Boise Meridian;

All of Lots 1, 2, 3, and 4; the $E\frac{1}{2}$ of the $NE\frac{1}{4}$; and the $NE\frac{1}{2}$
of the $SE\frac{1}{4}$ of Section 22, Township 7 North Range 25 East of
the Boise Meridian;

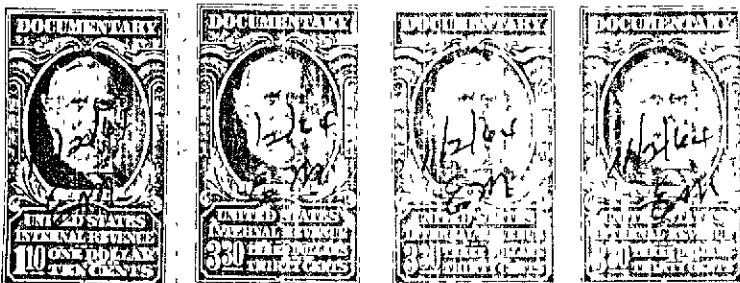
All of Lots 1, 2, and 3; the $NE\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 21,
Township 7 North Range 25 East of the Boise Meridian;

The $NE\frac{1}{4}$; the $E\frac{1}{2}$ of the $NW\frac{1}{4}$; the $N\frac{1}{2}$ of the $SW\frac{1}{4}$; the $NW\frac{1}{4}$ of
the $SE\frac{1}{4}$; and the $N\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $SE\frac{1}{4}$; Section 28,
Township 7 North Range 25 East of the Boise Meridian;

The $W\frac{1}{2}$ of the $W\frac{1}{4}$ of the $NE\frac{1}{4}$; and the $W\frac{1}{4}$ of the $NW\frac{1}{4}$ of the
 $SE\frac{1}{4}$ of Section 2, Township 7 North, Range 25 East of the
Boise Meridian;

The $W\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 35, Township 8
North, Range 25 East of the Boise Meridian;

Together with any and all water rights appurtenant thereto and
used in connection therewith.



TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents,
issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in
law as in equity, of the said parties of the first part

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together
with the appurtenances, unto the parties of the second part, and to their heirs and assigns for-
ever, and the said parties of the first part, and their heirs, the said premises in the quiet and
peaceable possession of the said parties of the second part, their heirs and assigns, against the
said parties of the first part, and their heirs, and against all and every person and persons
whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents
forever DEFEND

NOT QUALITY ORIGINAL

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Charles L. ... (SEAL)
Samuel ... (SEAL)
____ (SEAL)
____ (SEAL)

STATE OF IDAHO,
County of *Custer* } ss.

On this *17th* day of *December* in the year 19*27*, before me,
____, a Notary Public

in and for said State, personally appeared *Charles L. ...*
Samuel ...
known to me to be the person whose name *...* subscribed to the within instrument, and acknowledged to me that *he* executed the same

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

Lawrence T. ...
Notary Public for the State of Idaho,
Residing at *...* Idaho.

NOT QUALITY ORIGINAL

No. *115,022*

WARRANTY DEED

—TO—

Dated *...*, 19*...*

STATE OF IDAHO,
County of *Custer* } ss.

I hereby certify that this instrument was

filed for record at request of *David Y. Lang*

at *20* Minutes past *1*

o'clock *P.* M., this *3rd* day

of *February*, A. D. 19*27*

in my office, and duly recorded in Book *23*

of *Deeds* at page *671*

Howard B. ...
Ex-Officio Recorder.

By _____ Deputy

Fees, \$ *1.50*

Mail to _____

MESSINGER PRINTERS, INC. EMMLT IDAHO

Compared, Indexed

NOV 19 1982

Department of Water Resources
Eastern District Office

I, Reed "Z" Asay, of Mackay, Idaho, do hereby sell to Reed M. Nielson, also of Mackay, Idaho, his assigns and heirs, for the sum of \$5.00 (five dollars), the water rights described as:

34-0884 Decree Lower Cedar Creek 1-01-1922 5.7 cfs NE 1/4, E 1/4, Sec. 18
34-0885 Decree Lower Cedar Creek 1-01-1924 1.7 cfs NW 1/4, Sec. 18
34-0886 Decree Lower Cedar Creek 1-01-1925 1.6 cfs T7N, R25E

IN WITNESS to this, I have set my hand and seal this 6 day of August, 1982.

Reed Z Asay
Reed "Z" Asay

STATE OF IDAHO)
County of Custer) ss.

On this 6 day of August, 1982, before me, Lita M. Anderson, a Notary Public in and for said State, personally appeared Reed Z Asay, known to me to be the person whose name is subscribed to the above document, and acknowledged to me that he executed the same.

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

Lita M. Anderson
Notary Public residing at Mackay, Idaho

My Commission Expires: Sept 21, 1983



United States
Department of
Agriculture

Farmers
Home
Administration

Room 429, 304 North Eighth Street
Boise, Idaho 83702

July 14, 1982

Department of Water Resources
Attn: Ernie Carlson
150 Shoup
Idaho Falls, ID 83402

Dear Mr. Carlson:

Farmers Home Administration (FmHA) has been contacted by Reed Z. Asay of Mackay, Idaho, regarding a release of water rights from Lower Cedar Creek. The mortgage FmHA holds on Mr. Asay's property does not cover any water use from Lower Cedar Creek. We are attaching a copy of the legal description of the property covered by the FmHA mortgage. It is also our understanding that the water in question is presently being used by Mr. Reed Nielsen.

The water on Lower Cedar Creek is not considered as part of the security for the mortgaged property of Mr. Asay by Farmers Home Administration.

If you need further assistance, please do not hesitate to contact this office.

Sincerely,

James E. Wheeler
JAMES E. WHEELER
Farmer Program Specialist

Attachment

*cc to: Reed Asay
Reed Nielsen*



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

Description:

TOWNSHIP 7 NORTH, RANGE 25 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO.

- Section 21: Lots 1, 2, and 3.
- Section 22: NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and Lots 1, 2, 3, and 4.
- Section 27: NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$.
- Section 28: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and that portion of N $\frac{1}{2}$ SW $\frac{1}{4}$ lying North of the Upper Burnett Ditch.

- . E. Survey No. 562, embracing a portion of approximately Section 2, Township 7 North, Range 25, East Boise Meridian, and Section 35 in Township 8 North, Range 25 East of the Boise Meridian, described as:

Beginning at Corner No. 1 from which U. S. Location Monument No. 561 bears North 7°39' West, 151.16 chains distant; thence East 20 chains to Corner No. 2; thence South 1°6' West 80 chains to Corner No. 3; thence West 20 chains to Corner No. 4; thence North 1°6' East, 79.97 chains to Corner No. 1, the PLACE OF BEGINNING, according to the Official Plat of the Survey of the said land, on file in the General Land Office, less the following described tract from said H. E. S. No. 562:

Beginning at Corner No. 2 of H. E. S. 562; thence, S. 1°06'42" W. 5,267.13 feet to Corner No. 3; of said H. E. S. No. 562; thence
 N. 89°57'51" W. 630.28 feet to Corner No. 5; thence
 N. 16°45'30" E. 541.82 feet to Corner No. 6; thence
 S. 15°36'49" E. 1,139.46 feet to Corner No. 7; thence
 S. 1°06'38" E. 490.95 feet to Corner No. 8; thence
 S. 4°19'42" E. 1,050.49 feet to Corner No. 9; thence
 S. 11°52'37" W. 1,117.32 feet to Corner No. 10; thence
 S. 33°52'09" W. 762.15 feet to Corner No. 11; thence
 S. 35°44'06" W. 139.85 feet to Corner No. 12; thence
 N. 6°25'00" E. 267.01 feet to Corner No. 13; thence
 N. 89°59'33" E. 887.17 feet to Corner No. 2 of said H. E. S. No. 562, the Place of Beginning.

**NOTICE OF PROPOSED
CHANGE OF WATER
RIGHT**

NO. 34-0884/0885/0886

Notice is hereby given that Reed M. Nielsen, Mackay, Idaho, has applied to the Department of Water Resources for a change in the place of use of the waters of Lower Cedar Creek tributary to Sinks. The right sought to be changed is evidenced by decrees No. 34-0884/0885/0886 to C. V. Hansen in Case of Utah Construction vs Abbott et al, dated in Oct 1, 1925 in U.S. District Court, Butte & Custer Counties and are recorded as follows:

AMOUNT: 3.2 cfs 34-0884 and 1.6 cfs 34-0885/0886.

PRIORITY: 1-1-1913 34-0884, 1-1-1914 34-0885, and 1-1-1915 34-0886

POINT OF DIVERSION:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, T. 7N, R. 24E, B.M. Custer County

The water is used to irrigate lands within the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec 28, T. 7N, R. 24E. B.M.

**TO BE CHANGED AS
FOLLOWS**

The water will be used to irrigate 320 acres within the N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 8, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, T. 7N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave, Suite 15, Idaho Falls, Idaho 83402, on or before Dec 27, 1982.

A. KENNETH DUNN
Director

Pub: 12/9 & 12/16/82

AFFIDAVIT OF PUBLICATION

State of Idaho County of Custer, ss.

I, *Wm. H. C.*
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 *2*.....
19*02* and ending with the issue
dated *1*.....19*02*.

Margaret Parks

Subscribed and sworn to before
this *16th* day of *December*
19*02*

Ethel M. Park

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

Life

DEC 22 1902

Department of Justice
Eastern District Office

C. V. Hansen

✓ 1913-January 1 ✓ 3.2 c.f.s.
34 0884 ✓
✓ 1914-January 1 ✓ 1.6 c.f.s.
34 0885 ✓
/ 1915-January 1 ✓ 1.6 c.f.s.
34 0886 ✓

No. 545.

To be diverted from Lower Cedar Creek through the Hansen ditch having its point of diversion in the Northwest quarter of the Southwest Quarter of Section 2, Township 7 North, Range 24 East, B.M., for the irrigation of the following described land, to-wit:

The Northeast quarter, East half of the Northwest quarter and the North half of the Southwest quarter of Section 28, Township 7 North, Range 25 East, B.M.

William J. Harris

(Named in Plaintiff's amended complaint herein as William Harris)

✓ 1896-March 2 ✓ 0.8 c.f.s.
34 0887 ✓

No. 546.

To be diverted from Big Lost River through the Burstedt-Johnson Ditch having its point of diversion in the Northwest quarter of Section 32, Township 6 North, Range 26 East B.M., for the irrigation of the following described land, to-wit:

Southeast quarter of the Southwest quarter of Section 9, Township 5 North, Range 26 East, B.M.

G. A. Hodges

34 0888 ✓
/ 1898-June 1 ✓ 1.6 c.f.s.
/ 1887-June 30 ✓ 0.8 c.f.s.
12-6-1-98 Trans. 570
34 0889 ✓

No. 547.

To be diverted from Big Lost River through the Upper Burnett ditch having its point of diversion in the Northwest quarter of Section 34, Township 7 North, Range 24 East, B.M., for the irrigation of the following described land, to-wit:

The North half of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 7, Township 6 North, Range 26 East, B.M.

C. V. Hansen

1913-January 1 ✓ 3.2 c.f.s.
34 0884

1914-January 1 ✓ 1.6 c.f.s.
34 0885

1915-January 1 ✓ 1.6 c.f.s.
34 0886

No. 545.

To be diverted from Lower Cedar Creek through the Hansen ditch having its point of diversion in the Northwest quarter of the Southwest Quarter of Section 2, Township 7 North, Range 24 East, B.M., for the irrigation of the following described land, to-wit:

The Northeast quarter, East half of the Northwest quarter and the North half of the Southwest quarter of Section 28, Township 7 North, Range 25 East, B.M.

William J. Harris

(Named in Plaintiff's amended complaint herein as William Harris)

1896-March 2 ✓ 0.8 c.f.s.
34 0887

No. 546.

To be diverted from Big Lost River through the Burstedt-Johnson Ditch having its point of diversion in the Northwest quarter of Section 32, Township 6 North, Range 26 East B.M., for the irrigation of the following described land, to-wit:

Southeast quarter of the Southwest quarter of Section 9, Township 5 North, Range 26 East, B.M.

G. A. Hodges

1898-June 1 ✓ 1.6 c.f.s.
34 0888

1887-June 30 ✓ 0.8 c.f.s.

12-6-1-98 Trans. 570
34 0889

No. 547.

To be diverted from Big Lost River through the Upper Burnett ditch having its point of diversion in the Northwest quarter of Section 34, Township 7 North, Range 24 East, B.M., for the irrigation of the following described land, to-wit:

The North half of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 7, Township 6 North, Range 26 East, B.M.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER OF WATER RIGHTS NOS. 34-0884,
34-0885, AND 34-0886. IN THE NAME
OF REID M. NIELSEN

ORDER

WHEREAS, on November 10, 1982, Reed M. Nielsen filed with the Department of Water Resources, Application for Transfer #2759 in connection with Water Right Nos. 34-0884, 34-0885, and 34-0886; and,

WHEREAS, on December 9 and December 16, 1982 said Application for Transfer was published in the CHALLIS MESSENGER; and,

WHEREAS, on May 10 1983, the Department approved said Transfer with the condition that the use of said water rights were subject to the control of the watermaster of Water District No. 34, Big Lost River; and,

WHEREAS, May 19, 1983, Mr. Nielsen informed the Department that said water rights using Lower Cedar Creek were excluded from Water District No. 34 because water from Lower Cedar Creek was not tributary to Big Lost River,

IT IS THEREFORE HEREBY ORDERED that the condition of approval of application of transfer No. 2759 for water right Nos. 34-0884, 34-0885, and 34-0886, which subject the use of water under the transfer to the control of the watermaster of Water District No. 34 is REMOVED.

Dated this 6th day of June 1983.


L. GLEN SAXTON
Chief, Operations Bureau

INTER-DEPARTMENT MEMO — 1

FROM Dave T

DATE 6/1/83

TO Jim

SUBJECT

Please draft an order which will change the conditions of approval accordingly (We ~~will~~^{may} also want to take the teeth out of the M.D. condition as Mr. Nielson now appears to be one of the very few irrigators from the creek. A quick field exam by the regional office to look at this factor may be wise.)

Dave

SIGNATURE

INTER-DEPARTMENT MEMO — 1

DATE 5-27-83

FROM JIM

TO DAVE

SUBJECT Transfer conditions

Mr. Nielsen is correct, Lower Cedar Creek is not part of
W.D. 34. ~~Remove~~ the Water Master condition should be removed
from the transfer. ^{attached} See 1 copy of decree paragraph No. 8

SIGNATURE

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.

INTER-DEPARTMENT MEMO — 1

FROM

Dave T

DATE

5/19/83

TO

Jim

SUBJECT

Please review my conv. memo of this date & recommend
a course of action based on info in the file & the
language in the decree.

Dave

SIGNATURE

CONVERSATION MEMORANDUM

DATE 5/19/1983FILE 34-0881, 0885, 0886NAME OF PARTY Reed M. NielsenEMPLOYEE Dave TutillRE: 34-0881, 0885, 0886 Transfer No 2759

Mr Nielsen called to say he feels the conditions of approval that were added to the above ref. transfer are not appropriate, given the physical situation in Lower Cedar Creek. He stated that:

1. It is his understanding that Lower Cedar Creek was decreed as a "dry stream" not tributary to the Big Lost River.
2. It is his understanding that when there was an active water district on Lower Cedar Creek, this water district was separate & distinct from the water district on the Big Lost River.
3. The flows of Lower Cedar Creek have not reached the Big Lost River for at least 25 years.

I indicated that we would carefully review this matter and either modify the conditions of approval or make further contact with him in some other way.

Dave 5/19/1983



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Comptroller

A. KENNETH DUNN

Director

Mailing address
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 12, 1983

RE: Water Right Nos. 34-0884, 34-0885 and 34-0886

Reed M. Nielsen
Box 216
Mackay, ID 83251

Dear Mr. Nielsen:

Enclosed is a copy of your approved application for transfer of the above referenced water rights (Transfer No. 2759). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

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

DRT:kw
Enclosure

Memo

4-21-83

TO: FILE

FROM: Jim

RE: CONVERSATION W/ SKIP JONES

E. Region has recommended approval of this transfer because:

- 1) No other wtr rts would be injured because Mr. Nielsen is currently the only water user on L. Cedar Creek.
- 2) L. Cedar Creek does not flow into Big Lost R most of the year.
- 3) Watermaster does not regulate L. Cedar Cr.
- 4) Mr. Nielson has ^{apparently} ~~appeared to~~ diverted this water for many years.
- 5) Rt. has not been used on Original rt. P/u description. ~~has not~~ ^{used} They are not sure of the history on the use of this rt.
- 6) Rita Lundy has been encouraging wtr users to identify wtr rts they have been using by filing transfers, permits, claims etc.

∴ Recommend approval of rt

TRANSFER REVIEW

Wtr. Rt. OVERLAP REVIEW

NEW Place of USE

34-²²⁵¹~~2082~~

2-3-1926

LWR CEDAR CR.

$$2.0 \text{ cfs} / 100 \text{ AC} = 0.02 \text{ cfs/AC.}$$

PARTIAL OVERLAP 75 AC

P/D IN SAME 40 AC TRACT AS IN TRANS APP.

34-2082

4-17-1909

(LWR) CEDAR CR.

superceeded by Decree No. 34-0808 (Appears to be same
SOURCE AS 34-2251)

$$6.4 \text{ cfs} / 320 \text{ AC} = 0.02 \text{ cfs/AC}$$

PARTIAL OVERLAP 280 AC.

P/D IN SAME 40 AC TRACT AS IN TRANS. APP.

NEW PLACE OF USE

Place of Use shown in Transfer App.
Already has 0.02 cfs/ac for all of the
lands from the same source.

Transfer proposes to ~~use~~ use rights
w/ earlier priority dates on this land.

PER Discuss w/ DAVE T. this transfer is
acceptable if the purpose is to reflect
actual practice of using the water rights.
see item 2 on transfer.

~~the transfer is not necessary / 12/1/83~~
~~from 1/1/84 to 12/1/83 / 12/1/83~~

TRANSFER REVIEW

Total water diverted at head gate
if transfer is approved: Per P/D identified by transfer
and Lic Rts.

34-0808 6.4 cfs

34-0884 3.2

34-0885 1.6

34-0886 1.6

34-2251 2.0

14.8 cfs allow loss of 50% *1

for ditch loss = 7.4 cfs

** Total lands irrigated under above wtr rts. = 420 ac

$$7.4 / 420 \text{ ac } ~~7.4 / 420~~ = \underline{0.018 \text{ cfs/ac}}$$

*1 Ditch loss based upon Moritz formula

** Per transfer, wtr using does not show
total lands irrigated. Transfer^{only} shows

280 ac out of 320 in ut 34-0808
et 34-2251 show that
and 175 ac out of 100 ~~100 ac~~ overlaps
P/C identified in transfer.

Total Diversion as reflected by
transfer and Lic. 34-2251: 13.5 cfs x .5 = 6.75

$$6.75 / 320 \text{ ac} = \frac{0.021 \text{ cfs/ac}}{0.024 \text{ cfs}}$$

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 34-C884-C885-C886

JAN 11 1983
Department of Water Resources
Eastern District Office

RECOMMENDATION OF WATERMASTER

I, Eugene H. Gabert, watermaster of Big Lost River,
of Water District No. #134, County of Butte & Custer, State of Idaho,
whose address is P.O. Box 506 Mackay, Idaho 83251
have read the attached copy of the application for transfer of water right for _____
Reed M. Nielsen, 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: Please correct error on Transfer
No 4 should read 34-C886-C887-C885
DATE of PRIORITY

Dated at Mackay, Idaho, this 7 day of JAN. 19 83.

Eugene H. Gabert
(signature)

January 6, 1982

RE: Application for Transfer No. 34-0884/0885/0886 NIELSEN

Eugene Gabert, Watermaster
Water District No. 34
413 Elm Street
Mackay, Idaho 83251

Dear Mr. Gabert:

Our files indicate we have not received your watermaster comments on the above captioned application for transfer, which was forwarded to you on December 6, 1982. Therefore, enclosed please find a copy of the application and another watermaster recommendation form.

Section 42-222 of the Idaho Code states that watermaster recommendations must be submitted to the Department before proceeding with final administrative action. Since advertising of the application is completed, I urge you to give this matter immediate attention.

Your cooperation is appreciated.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosures

December 6, 1982

RE: Transfer #34-0884/0885/0886, NIELSEN

Eugene Gabert, Watermaster
Water District No. 34
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 December 27, 1982.

Thank you for your cooperation.

Sincerely,"

BARBARA L. POWERS
Secretary

Enclosures

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 34-0084/0885/0886

Notice is hereby given that Reed M. Nielsen, Mackay, Idaho, has applied to the Department of Water Resources for a change in the place of use of the waters of Lower Cedar Creek tributary to sinks. The right sought to be changed is evidenced by decrees No. 34-0884/0885/0886 to C.V. Hansen in Case of Utah Construction vs Abbott et al, dated in Oct. 1, 1925 in U.S. District Court, Butte & Custer Counties and are recorded as follows:

AMOUNT:	3.2 cfs	34-0884	PRIORITY:	1-1-1913	34-0884
	1.6 cfs	34-0885/0886		1-1-1914	34-0885
				1-1-1915	34-0886

POINT OF DIVERSION. NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, T. 7N. R. 24E, B.M. Custer County

The water is used to irrigate lands within the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 28 T. 7N, R. 25E. B.M.

TO BE CHANGED AS FOLLOWS

The water will be used to irrigate 320 acres within the N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 8, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, T. 7N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402, on or before Dec. 27, 1982.

A. KENNETH DUNN

Director

Published in the Custer County Publishing Co., Challis, Idaho on 12/2⁷ & 12/16/82

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: HWJ

1. Right number 34-0884, -0885, -0886 Applicant Reed Nielsen
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. — No change
- 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 _____

i. ☒ Check for existing water rights from same source, on land water is being transferred to.

Right number(s) 34-2251 - 2252
34-0808 April 17, 1909

j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No

If yes, what district? # 34 - Idaho jurisdiction - does not extend to
Inter-Cedar Creek

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 9-15-82 Received on 1-11-83
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* 1) OIE, 2) OS (34- big Lost R. per)
3) Water diverted under this transfer shall not exceed
0.02 cfs/acre when combined with all other water rights
appurtenant to the lands identified herein.
The rate of application of water for irrigation under this
transfer and all other water rights on this same land shall not
exceed 0.02 cfs for each acre of land.

4. By Ernest Carlson Date Jan 6 83

JAN 18 1983

Jan 4-21-83 use above conditions

* All uses within Watermaster Districts require special conditions.

Department of Water Resources



United States
Department of
Agriculture

Soil
Conservation
Service

October 7, 1982

Dear Reed,

Attached you will find our evaluation of your irrigation needs for the Warren Place. This evaluation is based on information obtained from you, personal observation in the field, soils data, and information obtained from the Idaho information guide.
irrigation and

For a more accurate evaluation of your ditch loss we would recommend that flow measurements be made.

Sincerely,

Anthony R. Bennett

Anthony R. Bennett
District Conservationist



The Soil Conservation Service
is an agency of the
Department of Agriculture

SCS-AS-1
10-79

Idaho
J. Palmer

Reed Nielsen

10/7/82

Irrigation Needs

1 2

Given

220 Acres
Length of run 300 to 700 ft
Crop - Hay, Pasture
Peak Consumption rate ≈ 0.25 in/day
Soil gravelly loam Water Holding Capacity ≈ 5 "

Wanted

approximat. water need

Solution

Available Water Holding Capacity for crop ≈ 2.5 "

$$\frac{2.5 \text{ "}}{0.25 \text{ "/day}} = 10 \text{ day; irrigation freq needed}$$

$$\frac{220 \text{ Ac}}{10 \text{ day}} = 22 \text{ Ac/day need to be irrigated}$$

$$\text{Net Application} = \frac{22 \text{ Ac}}{\text{day}} \times \frac{5 \text{ "}}{12 \text{ "}} = 4.58 \text{ Ac ft/day}$$

Irrigation analysis
of Reed Asay
4-13-81 by REL

Assume Irrigation Efficiency $\approx 20\%$

Idaho
S. Palmer

Reid Nielsen

10/7/82

Irrigation Needs

2 2

$$4.58 \text{ ac ft/day} / 20\% \text{ EFF} = 22.9 \text{ Ac ft/day}$$

$$22.9 \text{ Ac ft} / \frac{1}{24 \text{ hr}} \times \frac{1 \text{ CFS } 12 \text{ hr}}{1 \text{ Ac ft}} = 11.45 \text{ CFS Needed}$$

also sprinkl. irrigate 140 ac

USE 4 Lines approx 55 GPM Nozzle

$$\frac{4 \text{ (33) } 5.5 \text{ gpm/nozzle}}{450 \text{ gpm/MI}} = 1.61 \text{ CFS}$$

11.45 + 1.61 = 13.06 CFS USED at
End of Ditch

Ditch Runs Approx 5 mile Assume
Ditch Loss $\approx$ 65%

$$\text{Water Needed @ Diversion} \approx \frac{13 \text{ CFS}}{35\% \text{ EFF}} \approx 37 \text{ CFS}$$

$$37 \text{ CFS} = 1857 \text{ MI}$$

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT
DATA ENTRY LOG[illegible]

September 15, 1982

Reed Nielsen
Box 216
Mackay, ID 83251

Dear Mr. Nielsen:

Enclosed you will find your application for transfer of a water righta and supporting paperwork.

I feel the Boise office might require a soil profile to establish that your ground falls into the extremely porous classification. You might consider this and perhaps the local S.C.S. office could assist you.

Please review the application and if all seems correct sign and have the application notarized. A fee of \$50.00 will be required and should accompany the application and all paperwork.

Sincerely,

HAROLD W. JONES
Sr. Resource Agent

HWJ:bp

Enclosures