

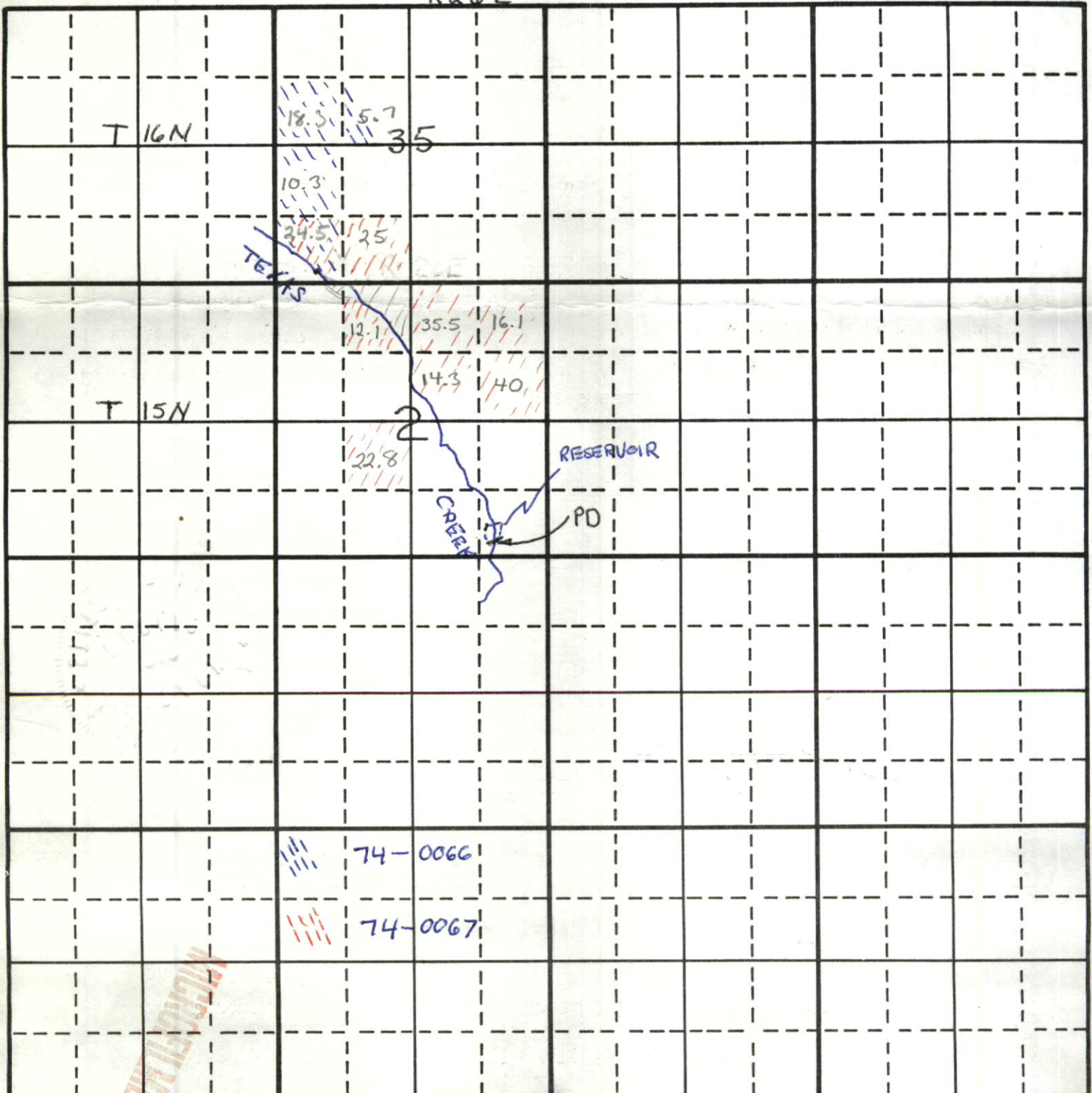
c. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

Total number of acres to be irrigated _____

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

R26E



NOTICE OF PROPOSED
CHANGE OF WATER
RIGHTS
NOS. 74-0066/74-0067

Notice is hereby given that James and Maybelle Ellsworth, Leadore, Idaho, have applied to the Department of Water Resources for a change in the point of diversion of the waters of Texas Creek tributary to Lemhi River. The rights sought to be changed are evidenced by Decree to Thomas H. and Emma Yearian in case of Hays vs. Benson dated May 14, 1920 in Sixth District Court, Lemhi County and are recorded as follows:

Right No. 74-0066

AMOUNT: 2.74 cfs

PRIORITY: 6/1/1880

POINT OF DIVERSION:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 58.8 acres.

Right No. 74-0067

AMOUNT: 3.89 cfs

PRIORITY: 6/1/1881

POINT OF DIVERSION:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E; S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 190.6 acres.

TO BE CHANGED AS
FOLLOWS

The water will be diverted within the SE $\frac{1}{4}$ -SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E, Lemhi County.

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., Idaho Falls, Idaho, 83401, on or before July 20, 1981.

A. KENNETH DUNN
Director

Published in The Recorder-Herald 7/2 and 7/9/81.

7-2-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RECEIVED

JUL 10 1981

Department of Water Resources
Eastern District Office

JERRY G. ROSIN

being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Not. Proposed Change Water Rts. 74-0066/74-0067

a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for 2 consecutive issues, commencing with the issue dated July 2, 1981 and ending with the issue dated July 9, 1981

Jerry G. Rosin

Subscribed and sworn to before me, this ninth

day of July, 1981

Steve Armstrong

Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee \$ 33.30

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

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OCT 12 1982

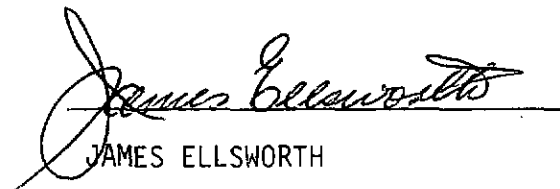
Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR TRANSFER)
NOS. 74-0066/0067 IN THE NAME OF)
JAMES AND/OR MAYBELLE ELLSWORTH)

WITHDRAWAL

I, hereby, request that the above referenced application
for transfer be withdrawn from the files of the Department of Water
Resources.

Dated this 8 day of Oct., 1982.


JAMES ELLSWORTH

Transfer No. 2577Water Right No. 74-0066

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

Name of applicant James and/or Maybelle Ellsworth Phone 768-2664Post Office address Box 60, Leadore, Idaho 83464**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

74-0066; 74-0067a. Decree No. _____ Decreed to Thomas H and Emma Yearian
(Name)
in case of Hays vs Bensondated in May 14, 1920 in Sixth District county of _____
(Name of court)

b. License No. _____ issued by the Idaho Department of Water Resources

c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant is present owner of lands involved and is supported by findings of fact in current Lemhi adjudication - pg. 1333. Source of water Texas Creek tributary to Lemhi River4. Date of priority 74-0066 (6/1/1880); 74-0067 (6/1/1881)

5. Water is used for the following purposes:

74-0066 amount 2.74 cfs for Irrigation purposes from 4/1/ to 11/1
74-0067 amount 3.89 cfs for Irrigation purposes from 4/1 to 11/1
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)6. Total amount of water under right: a. 6.63 **see remarks cubic feet per second
&/or
b. _____ acre feet per annum7. Location of original point of diversion is SW _____ % of SE _____ % of Section 11
Township 15N Range 26E, B.M., in Lemhi County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
74-0066																			
16N	26E	35							18.3	5.7		10.3	24.5						58.8
74-0067																			
15N	26E	2	L1	L2			L3	L4							22.8				141.1
16N	26E	35										24.5	25						49.5
																			190.6

Total number of acres to be irrigated 249.49. Describe any other water rights used for the same purpose as described above 74-2329
74-2320

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years

omit part B).

a. _____ cubic feet per second
g/or

b. _____ acre feet per annum

Point of diversion _____ 1/4 _____ 1/4, Section _____ Township _____ Range _____, B.M., _____ County _____

Additional points

Place of use:

_____ Total number of acres to be irrigated

1.	General Information	74-0066	-	2.74
		74-0067	-	3.89

6.63

b. ~~Description of diverting works — Diversion dam in creek via ditch to pond then pump~~

c. Describe the reasons for the proposed changes

and will facilitate easier measurement and delivery of rights.

Point of diversion

Additional points -

a. Are there liens, mortgages, or contra

right which limit your authority to make the proposed change? Yes _____ No _____ If yes, provide _____

a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

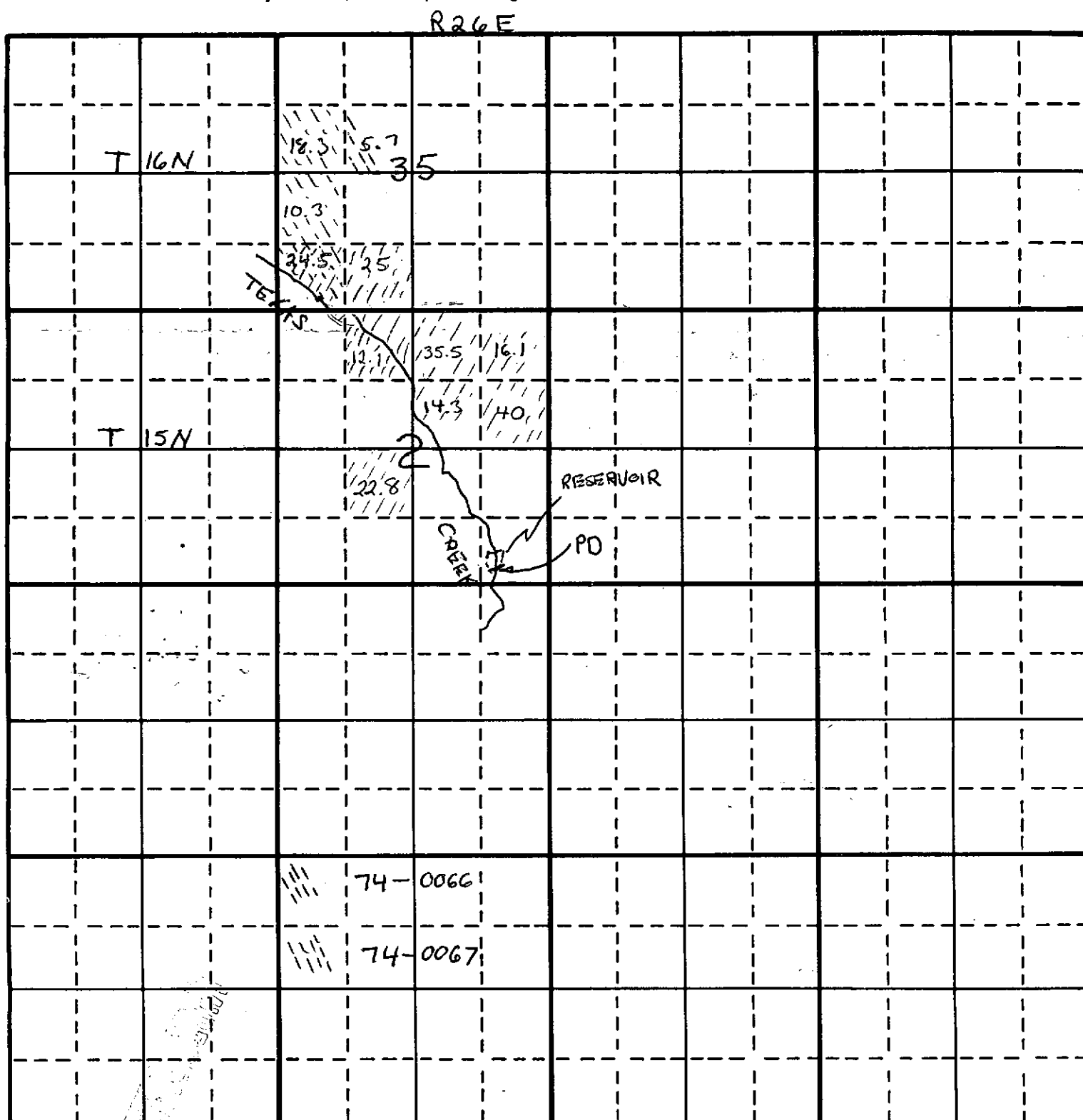
b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

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

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

Total number of acres to be irrigated _____

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



D. REMARKS

The rate of diversion from Texas Creek when added to a portion of right

74-0042 from ^{Timber} Timer Creek actually delivered into the channel of Texas Creek by
and through the Yearian - Timber Creek Ditch shall not exceed 2.74 cfs (74-0066)
and 3.89 cfs (74-0067)

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.

Subscribed and sworn to before me this 17th day of June, 19 81

(Signature of Applicant)

(Notary Public)

My commission expires 6/15/85

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

Witness my hand this _____ day of _____, 19____

FOR DEPARTMENT USE ONLY

Received by Qu Date 6-17-81

Prelim. check by KCW Fee _____

Receipted by Qu Date 6-17-81

Published in Recorded No 1723

Pub. dates 1/2 & 7/9/81

Watermaster recommendation requested on _____

_____ rec'd. _____

Protest filed by M.E. Slavin, Lloyd

& Bess Sue Clark, Floyd J.

Whittaker, James W. Whittaker

Michael J. Overacker, Dennis R.

Copies of protest forwarded by Studebaker, Charles D. Som

Hearing held by _____ Date _____

Recommended for Withdrawal approval _____ denial _____

by EMC

S.M.J. Overacker, James

Fugway

A. Kenneth Dunn
Idaho Department of Water Resources
150 Shop Avenue
Idaho Falls, Idaho 83401

Dear Mr. Dunn,

Re: Water Rights # 74-0066 74-0067

In regards to an application for change in the point of diversion of the waters of Texas Creek, tributary to Lemhi River, applied for by James and Maybelle Ellsworth, I have no objections to a change in point of diversion as long as the water is metered at the original diversion point.

Sincerely,

James C. Fuquay
James Fuquay

On July 20, 1981 I contacted Mr. Fuquay to inform him that Mr. Ellsworth's application requests the point of measurement be changed. Realizing this was the case Mr. Fuquay asked that his letter be accepted as a protest. JMC

RECEIVED

JUL 20 1981

Department of Water Resources
Eastern District Office

Sir,

In reference to change of water rights nos. 74-0066 and 74-0067 of James + Maybelle Ellsworth, Leadore Idaho.

I protest to the change of point of diversion on the grounds of extreme water loss to the new diversion point, which would have to be made up by the rest of Texas Creek water users of which I am a member.

Charles Isom
Leadore, Idaho

83464
RECEIVED
JUL 17 1981

Department of Water Resources
Eastern District Office

July 14, 1981

Idaho Department of Water Resources
150 Shoup Ave.
Idaho Falls, Idaho

Dear Sirs:

This letter is in protest to proposed change of water rights #74-0066/74-0067. The right is 100 years old, one of the best on the creek. I feel it should continue as then decreed. Because the stream bed is wide and rocky a great deal of percolation and evaporation loss would occur by changing the diversion point downstream. Up stream users would certainly suffer from this change.

My water right on Texas Creek is #74-0107.

M. J. Overacker

M. J. Overacker

Box 1165

Salmon, Idaho 83467

RECEIVED
JUL 17 1981

Department of Water Resources
Eastern District Office

RECEIVED

JUL 15 1981

Department of Water Resources
Eastern District Office

Michael J. Overacker
Dennis R. Studabaker
P.O. Box 1376
Salmon, Idaho, 83467

Dear Mr. Dunn,

We would like to protest the proposed change of water rights nos. 74-0066 74-0067 proposed by James and Maybelle Ellsworth, Leducor Idaho,

We would be involved through rights 74-0086 74-0098 74-0085 74-0087 74-0100, these are the Elva Brown rights which we now own. These numbers are as listed in the Green Book

Due to the types of soil that Texas Creek runs through & evaporation, there is considerable stream loss. The ditch from the existing diversion travels through the same types of soil and has the losses which are taken by the owner of the right. We feel that if this change of diversion is granted the losses will be taken by the stream and lost water will have to be made up by water users having rights with a later priority dates. Water at times is critical in Texas Creek. Further cuts to make up losses for someone else is totally unacceptable.

Thank you
Michael J. Overacker
Dennis R. Studabaker

F. J. WHITTAKER

TWO DOT : RANCH

LEADORE, IDAHO - 83464

July 13, 1981

A. Kenneth Dunn
Idaho Department of Water Resources
150 Shoup Ave.
Idaho Falls, Idaho 83401

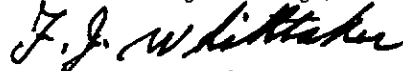
Gentlemen:

This letter refers to Nos. 74-0066 and 74-0067, in regard to James Ellsworth wanting to change his point of diversion on Texas Creek.

I wish to very strongly protest this change as it would be very detrimental to the rest of the creek owners to run his water down the old gravelly creek channel to a lower point of diversion, as it would take a large amount of shrinkage to do it.

I hope you will see fit to reject this change so that we won't have to go to court to stop it.

Yours very truly,



Floyd J. Whittaker

RECEIVED

JUL 14 1981

Department of Water Resources
Eastern District Office

Leadore, Idaho 83464
July 13, 1981

A. Kenneth Dunn
Idaho Department of Water Resources
150 Shoup Ave
Idaho Falls, Idaho 83401

RECEIVED

JUL 14 1981

Department of Water Resources
Eastern District Office

Dear Sir:

This letter is to protest the change of diversion of rights 74-0066 and 74-0067 on the waters of Texas Creek tributary to the Lemhi River.

This change, if allowed, would take considerably more water to fill the rights, as the creek channel has been dry below the point of diversion now in effect.

Mr. Ellsworth has found that out this year, as this is the first year he has taken his water down the old stream channel instead of in his ditch.

It is all right for him to take the water down the old channel, it just ought to be measured at the same point as in the past, so that he stands the loss instead of the rest of the creek owners.

This change should be denied to save a legal confrontation.

Sincerely,

James Whittaker

James Whittaker
Box 179
Leadore, Idaho 83464

Leadore, Idaho
July 13, 1981

A. Kenneth Dunn
Idaho Dept. of Water Resources
150 Shoup Ave.
Idaho Falls, Idaho 83401

This is a letter of protest to the
permitting of change of point of
diversion of waters of Trus Creek,
tributary to Lemhi River, by James
Ellsworth & Marbelle Ellsworth, NDS.
74-0066/74-0067.

The reason for protest is that
the amount in the additional distance
would be so great as to jeopardize
other water rights on the creek.

Thank you:
Floyd Clark
Deva Lee Clark
Leadore, Idaho
Box 8 83464

RECEIVED

JUL 14 11

Department of Water Resources
Eastern District Office

DEAR SIRS,

July 10 1981

I am a user of Texas Creek
Water, Therefore I am opposed
and protest the change
of water right filed by
James & Maybelle Elsworth
of Leadore Idaho

M. E. Shavin

Box 331

Salmon, Idaho.

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JUL 13 1981

Department of Water Resources
Eastern District Office

10-10-81

Decree to Thomas H. and Emma Yearian in case of Hays vs. Benson dated May 14, 1920 in Sixth District Court, Lemhi County and are recorded as follows:

Right No. 74-0066

AMOUNT: 2.74 cfs

PRIORITY: 6/1/1880

POINT OF DIVERSION:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 58.8 acres.

Right No. 74-0067

AMOUNT: 3.89 cfs

PRIORITY: 6/1/1881

POINT OF DIVERSION:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E; S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 190.6 acres.

**TO BE CHANGED AS
FOLLOWS**

The water will be diverted within the SE $\frac{1}{4}$ -SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E, Lemhi County.

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., Idaho Falls, Idaho, 83401, on or before July 20, 1981.

A. KENNEDY, Director

Published in The Recorder-Herald 7/2 and 7/9/81.

Boise, Idaho 83725

6-11-5tc

**NOTICE OF PROPOSED
CHANGE OF WATER
RIGHTS
NOS. 74-0066/74-0067**

Notice is hereby given that James and Maybelle Ellsworth, Leadore, Idaho, have applied to the Department of Water Resources for a change in the point of diversion of the waters of Texas Creek tributary to Lemhi River. The rights sought to be changed are evidenced by

NOTICE OF PROPOSED
CHANGE OF WATER
RIGHTS
NOS. 74-0066/74-0067

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AMOUNT: 3.89 cfs

PRIORITY: 6/1/1881

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The water is used for irrigation purposes from April 1 to November 1 within the NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E; S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 190.6 acres.

TO BE CHANGED AS
FOLLOWS

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A. KENNETH DUNN
Director

Published in The Recorder-Herald 7/2 and 7/9/81.

7-2-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

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JUL 10 1981

Department of Water Resources
Eastern District Office

JERRY G. ROSIN

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That the Not. Proposed Change Water Rts. 74-0066/74-0067

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Jerry G. Rosin

Subscribed and sworn to before me, this ninth

day of July, 1981

Sue Armstrong

Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee \$ 33.30

Trans. Nated

74-R-2-2

①
9.4

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE

OF IDAHO, IN AND FOR THE COUNTY OF LEMHI.

74-0055 Nettie J. Hays; Thomas H. Yearian and Emma R. Yearian, successors in interest of Elizabeth J. Yearian and Nora Y. Whitwell; Emma Yearian, successor in interest to C. C. Cavanaugh, W. Cahoon, R. F. McAfee, W. A. Mayer and Chas. L. Stewart; Mary Barrows in her own right and as Administratrix of the Estate of George Barrows, deceased, and Rock Vezina,

PLAINTIFFS

74-0056 C. H. Benson, in his own right and as successor in interest of W. A. McCutcheon; Nora E. Benson; L. H. Benson; Silas C. Dishno, successor in interest of Minnie Proulx; Reese Dunkin; W. J. Davidson; George A. Martin, successor in interest of Nelson Friend; Robert Fleming, Maye Fleming Townes; Gilmore & Pittsburg Railroad Company, Ltd., a corporation; Alexander Realty Company, a corporation, William Musser; John P. McGivney, successor in interest of and substituted for Roy B. Herndon; Philip McGovern; Pittsburgh Idaho Company, a corporation; Michael Proulx; William Queeney, Aaron J. Stewart; United States Forest Service Station; Quintus L. Webb; Anna M. Yearian; George W. Yearian; Joseph H. Yearian; Geo. P. Smith, Donald Fitzgerald; Mrs. Barnes, Boise City National Bank, a national banking corporation; Joseph Perrault, Jr., Walter Keefe, Belle T. McCutcheon; Herbert H. Hays; Joseph Perrault, Sr.; S. F. Tobias; Idaho Development Company, a corporation; Lemhi County, Idaho, a municipal corporation; Timothy Dore, as Special Deputy State Bank Commissioner of the State of Idaho

DEFENDANTS

This cause having heretofore come on for hearing before W. H. O'Brien, the referee regularly appointed by the Court for that purpose, and said hearing having been had without a jury;

The evidence and the proofs of the respective parties having been submitted to the said referee for his consideration and he having filed herein his Findings of Fact and Conclusions of Law, and the Court having adopted said Findings of Fact and

Conclusions of Law;

WHEREFORE, By reason of the law and the Findings and Conclusions aforesaid, the Court orders, adjudges and decrees: That the plaintiff, Nettie J. Hays, is entitled to the use of 1.4 cubic feet per second of time of the waters of Texas Creek in the County of Lemhi, State of Idaho, diverted in the Northwest Quarter of the Southwest Quarter of Section 34, Township 16 North, Range 26 East Boise Meridian, or so much thereof as shall be necessary for the irrigation of the following described arid and sub-irrigated lands owned and possessed by her, and for domestic use, to-wit:

The Northwest Quarter of the Southwest Quarter; the Southwest Quarter of the Southeast Quarter; and the Southeast Quarter of the Southeast Quarter of Section 34, Township 16 North, Range 26 East Boise Meridian, consisting of 120 acres, less a strip of land occupied by the G. & P. Railroad Company, Ltd., as a right of way in area 15 acres.

Her right thereto to date from June 10, 1898.

That the plaintiffs, Thomas H. Yearian and Emma R. Yearian, are entitled to the use of that quantity of the flow of the waters of Texas Creek which, when added to a portion of the quantity of the waters of Timber Creek actually delivered into the channel of Texas Creek by and through the Yearian-Timber Creek ditch, will amount to 2.74 cubic feet per second of time of the flow of the waters of said Texas Creek or the co-mingled waters of Texas Creek and Timber Creek, or so much thereof as shall be necessary, diverted in the Southwest Quarter of the Southwest Quarter of Section 35, in Township 16 North, Range 26 East Boise Meridian, for the irrigation of the following

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY:

KC Wilson

1. Right number 74-0066/0067 Applicant James & Maybelle Ellsworth
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.
- 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) 74-2329, 74-2320

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

If yes, what district? 74-W

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on kw Received on 7/6/81
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* Withdrawn

4. By

Ernest Carlson

Date

Oct 12, 1982

RECEIVED
OCT 19 1982

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

James Fuquay
Star Route
Leadore, ID 83464

Dear Mr. Fuquay:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

M. J. Overacker
Box 1165
Salmon, Idaho 83467

Dear Mr. Overacker:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

Charles Isom
Leadore,
Idaho 83464

Dear Mr. Isom:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

Michael J. Overacker
Dennis R. Studebaker
P.O. Box 1376
Salmon, ID 83467

Gentlemen:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

James Whittaker
Box 179
Leadore, Idaho 83464

Dear Mr. Whittaker:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

100-1000000000

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

Floyd J. Whittaker
Two Dot Ranch
Leadore, Idaho 83464

Dear Mr. Whittaker:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC: CW

SECRET

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

Lloyd Clark
Beva Lue Clark
Box 8
Leadore, ID 83464

Dear Protestant:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

104

October 13, 1982

RE: Application for Transfer No. 74-0066/0067
JAMES &/OR MAYBELLE ELLSWORTH

M. E. Slavin
Box 331
Saomon, ID 83467

Dear Mr. Slavin:

This letter is to advise you that the above referenced application for transfer has been withdrawn. The Department will, therefore, take no further action in this matter and has taken the steps necessary to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

10/13/82

October 12, 1982

RE: Application for Transfer No. 74-0066/0067

James &/or Maybelle Ellsworth
Box 60
Leadore, Idaho 83464

Dear Mr. & Mrs. Ellsworth:

This letter is to acknowledge receipt of your withdrawal of the above referenced application for transfer. The Department will take no further action in this matter and has taken necessary steps to void the application in our records.

If you have any questions concerning this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

RECEIVED
OCT 15 1982
FBI - BOZEMAN

September 29, 1982

RE: Application for Transfer No. 74-0066/0067

James Ellsworth
Box 60
Leadore, Idaho 83464

Dear Mr. Ellsworth:

In October, 1981, our Department was advised the above captioned application for transfer would be withdrawn and to postpone scheduling a hearing to consider the numerous protests received by the Department.

If you still wish to withdraw the application, simply sign the enclosed withdrawal form and return it to this office. Failure to return the form by October 8, 1982 will indicate your intent to pursue the application and we will include it in the next series of hearings to be held at Salmon.

If you have any questions concerning this matter, feel free to contact our office.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

CONVERSATION MEMORANDUM

DATE Oct 22, 81FILE 74-0066/0067NAME OF PARTY Alan Axton.EMPLOYEE Ernest Carlson.RE: James Ellsworth will be submitting a written
request to withdraw application for transfer #74-0066/0067.
State office will be issuing an order requiring the
installation of headgates & measuring devices in
Water District 74-W.Action: Hold application until written withdrawal is
received.

September 4, 1981

Mr. Obe Cory, Watermaster
Water District NO. 74-W
Box 105
Leadore, Idaho 83464

Dear Mr. Cory:

I am in receipt of your letter of August 7, 1981, regarding the Ellsworth application for transfer of water right. At this time, we do not have a tentative hearing date. However, when the hearing is scheduled you will be notified by certified mail of the date, place and time. As requested we will attempt to schedule the Leadore City Hall for the location of the hearing and will try and arrange some additional time following the hearing to discuss the need for installation of weirs and locking headgates within the water district.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

August 7, 1981

RECEIVED
AUG 10 1981

Ernest Carlson
Department of Water Resources
150 Shoup
Idaho Falls, Idaho 83401

Department of Water Resources
Eastern District Office

Dear Mr. Carlson:

Once again I am asking your help in water matters in WD# 74-W. First, I'm wondering if it would be possible to have the hearing regarding the Ellsworth Application For Transfer Of Water Right held in Leadore City Hall instead of in Salmon? With Salmon fifty miles downriver, I'm not sure that some of us could make the trip due to extra time and expense involved. I'd also like to know the tentative date of the hearing as this has generated considerable interest among the water users, and as I'd need to reserve the Leadore City Hall in advance.

Also, several of the water users in this district have expressed a desire to have someone from the Department Of Water Resources speak at a called WD# 74-W meeting citing the need for installation of weirs and lockable headgates in hopes that this might be the stimulus needed to vote approval of such in the district. Wonder if it'd be possible to tack this onto the tailend of the meeting involving the Ellsworth hearing? The way it stands now, a "goodly number" of the users in the district not only do not have headgates but they do not have measuring devices either. Maybe a good verbal reminder of the benefits of having weirs and headgates would get us going in the proper direction.

Best wishes,

Obe Cory

Obe Cory, Watermaster WD# 74-W, Box 105, Leadore, Idaho 768 2398
Copies to Max Beyeler, James Whitaker, Jim Ellsworth



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

July 21, 1981

RE: Application for Transfer of Water Rights. Nos. 74-0066 and 74-0067

James &/or Maybelle Ellsworth
Box 60
Leadore, ID 83464

Dear Mr. and Mrs. Ellsworth:

Enclosed herewith are copies of additional protests against approval of the above referenced application. Should you have any questions in this matter, please feel free to contact our office.

Sincerely,

KAY WALKER
Secretary

KW:k
Enclosures

ENCLOSURE

July 21, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

James Fuquay
Star Route
Leadore, Idaho 83464

Dear Mr. Fuquay:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 21, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

M. J. Overacker
Box 1165
Salmon, Idaho 83467

Dear Mr. Overacker:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 21, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

Charles Isom
Leadore,
Idaho 83464

Dear Mr. Isom:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

RECEIVED

JUL 17 1981

July 16, 1981

Department of Water Resources
Eastern District Office

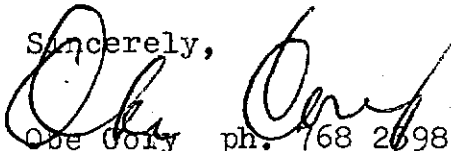
Gentlemen:

On July 14, 1981, I assisted Ernest Carlsen, Assistant Regional Supervisor, Department of Water Resources for the State of Idaho, in measuring the flow of water in the irrigation ditch mentioned in section C.1.b. of this Application For Transfer Of Water Right. The purpose of my request for this measurement was to determine the actual amount of water being delivered to the Ellsworth pumps, and to subsequently determine the amount of water loss that occurs between Mr. Ellsworth's weir and the aforementioned pumps.

Our findings were as follows: (1) The amount of water passing over the Ellsworth weir, some considerable distance upditch, measured 374 Miner's inches; (2) The amount of water actually reaching the Ellsworth pumps measured 255 Miner's inches. This represents a loss of water, between the Ellsworth weir and the Ellsworth pumps, of 119 Miner's inches, or a 31.8 percent shrink.

It is my opinion, based on a survey of the water users on Texas creek, that the surplus stream flow of Texas creek often is considerably less than the aforementioned 119 inches of shrink that occurs between the Ellsworth weir and pumps. Lloyd Clark, who has been a continuous water user on Texas Creek for over forty years has advised me that he has sometimes not had enough water during dry years and that if this application is approved as it stands, that he will not have adequate water even during normal years of average precipitation. In other words, I believe that this 119 inches of shrink will take water from users who have late priority rights. This, based on opinions of water users who have long observed the stream flow of Texas creek, and based on my actual measurements of Mr. Ellsworth's shrinkage, lead me to believe that I cannot in fairness endorse approval of this Application for Transfer as it now stands.

Sincerely,



Obe O'Leary ph. 768 2698
Watermaster, District 74-W
Box 105
Leadore, Idaho 83464

copies to: Dept. Water Resources; Lloyd Clark, President, Dist. 74-W;
James Ellsworth, applicant; Max Beyeler, Secretary, 74-W

Identification No. 740066/74-0067

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Obe Cory, watermaster of Texas creek, et. al.,
of Water District No. 74-W, County of Lemhi, State of Idaho,
whose address is Box 105, Leadore, Idaho 83464,
have read the attached copy of the application for transfer of water right for Ellsworth,
James and/or Maybelle, and to the best of my knowledge believe the
(name)
application to be true.

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

OR

can not
B. I ~~do not~~ endorse approval of this Application for Transfer as requested
for the following reasons: See attached explanation

Dated at Leadore, Idaho, this 14 day of July, 1981.

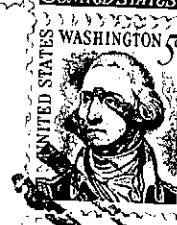
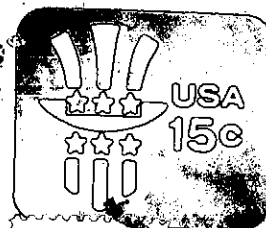
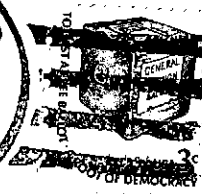

(Signature)

BILL NO.		☐ IN-SURED ☐ REGIS-TERED ☒ CERY-FIG ☐ RETURNED COD'S		MAIL FOR <i>State of Ala.</i>	
NO. OF ARTICLE	★ CODE	OFFICE OF ORIGIN	NO. OF ARTICLE	★ CODE	OFFICE OF ORIGIN
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★CODE: R=Return Receipt Requested. OS=Officially Sealed. RE=Re-enveloped. SD=Special Delivery. RW=Returned to Writer. DC=Received in damaged condition.

DATE OF DELIVERY <i>7/17/81</i>	RECEIVED THE <i>1</i> PIECES DESCRIBED ABOVE	ADDRESSEE <i>Angela Thompson</i> AGENT	POSTMARK— DELIVERY OFFICE
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OBE Cory
Box 105-
LEADORE, IDAHO 83404



ERNEST CARLSON
Assistant Regional Supervisor
Department of Water Resources
150 Stoup
IDAHO Falls, IDAHO 83404

July 14, 1981

RE: Application for Transfer No. 74-0066/0067

James &/or Maybelle Ellsworth
Box 60
Leadore, Idaho 83464

Dear Mr. & Mrs. Ellsworth:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing. Legal counsel is not mandatory at an proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

Enclosure

cc: IDWR - State Office

July 15, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

Lloyd & Beva Lue Clark
Box 8
Leadore, Idaho 83464

Dear Mr. & Mrs. Clark:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 15, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSMORTH

James Whittaker
Box 179
Leadore, Idaho 83464

Dear Mr. Whittaker:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 15, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

Michael J. Overacker
Dennis R. Studebaker
P.O. Box 1376
Salmon, Idaho 83467

Gentlemen:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 15, 1981

RE: Application for Transfer No. 74-0066/0067 ELLSWORTH

F. J. Whittaker
Two Dot Ranch
Leadore, Idaho 83464

Dear Mr. Whittaker:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 14, 1981

RE: Application for Transfer No. 74-0056/0067 ELLSWORTH

M. E. Slavin
Box 331
Salmon, Idaho 83467

Dear Mr. Slavin:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw:kw

cc: IDWR - State Office

July 6, 1981

RE: Application for Transfer of Water Rights Nos. 74-0066/74-0067

Obe Corey
Watermaster.
Water District No. 74-W
Leadore, ID 83464

Dear Mr. Corey:

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 July 20, 1981.

Thank you for your cooperation in this matter.

Sincerely,

ERNEST CARSEN
Assistant Regional Supervisor

EC:kw
Enclosures

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

NOS. 74-0066/74-0067

Notice is hereby given that James and Maybelle Ellsworth, Leadore, Idaho, have applied to the Department of Water Resources for a change in the point of diversion of the waters of Texas Creek tributary to Lemhi River. The rights sought to be changed are evidenced by Decree to Thomas H. and Emma Yearian in case of Hays vs. Benson dated May 14, 1920 in Sixth District Court, Lemhi County and are recorded as follows:

Right No. 74-0066

AMOUNT: 2.74 cfs

PRIORITY: 6/1/1880

POINT OF DIVERSION: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 58.8 acres.

Right No. 74-0067

AMOUNT: 3.89 cfs

PRIORITY: 6/1/1881

POINT OF DIVERSION: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, Twp. 15N, Rge. 26E, Lemhi County.

The water is used for irrigation purposes from April 1 to November 1 within the NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E; S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp. 16N, Rge. 26E, for 190.6 acres.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 15N, Rge. 26E, Lemhi County.

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., Idaho Falls, Idaho, 83401, on or before July 20, 1981.

A. KENNETH DUNN

Director

Published in the Recorder-Herald 7/2 and 7/9/81.