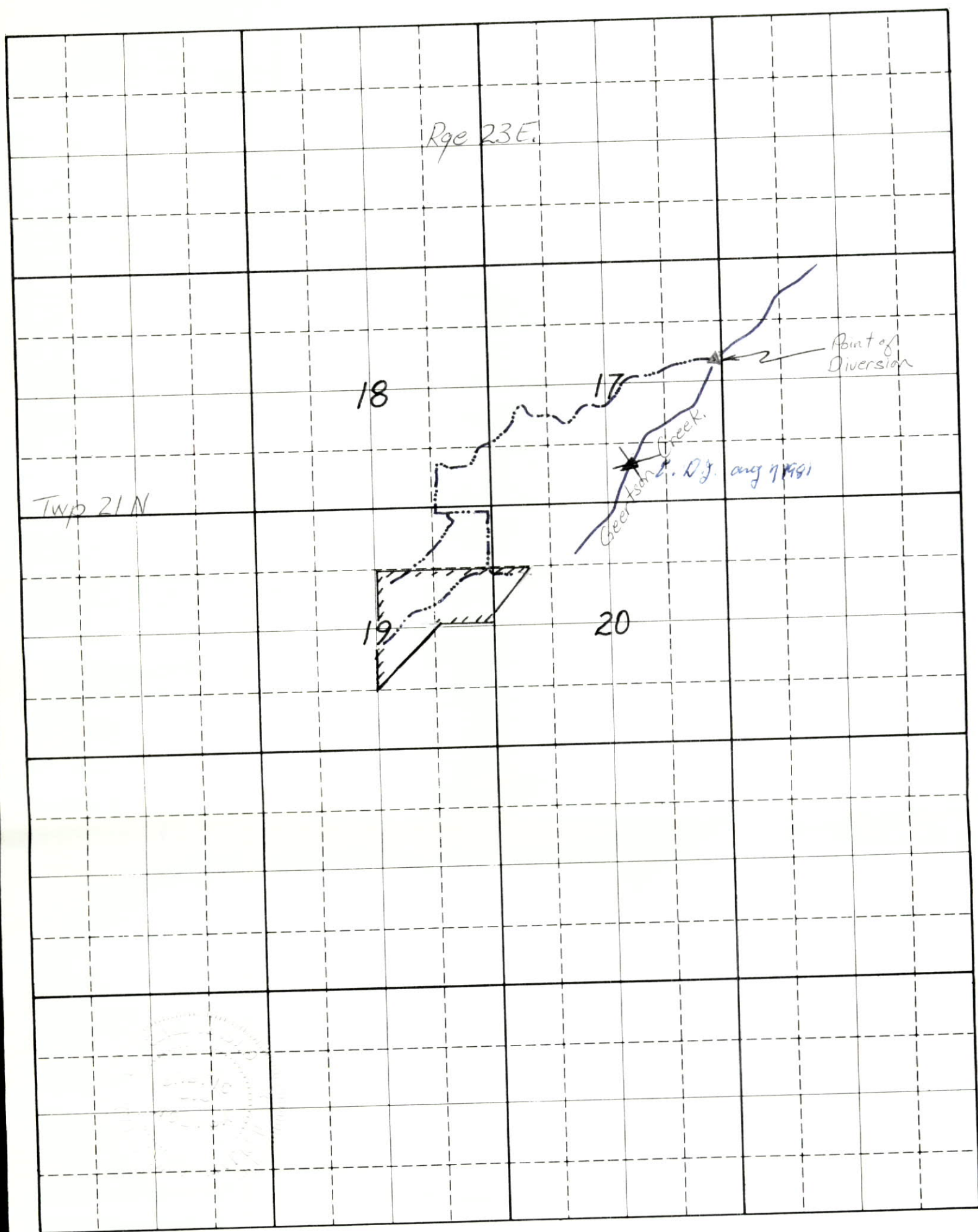


3. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

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NOTICE OF PROPOSED
CHANGE OF WATER
RIGHTS

NOS. 74-0005 &
74-1669B

Notice is hereby given that E. Dale &/or Mildred H. Jolley, Salmon, Idaho have applied to the Department of Water Resources for a change in the points of diversion of the waters of Geertson Creek tributary to Lemhi River. The rights sought to be changed are evidenced by decree to E. Dale &/or Mildred H. Jolley in case of Proposed Finding of Water Rights in Lemhi River Basin, Civil Case No. 4948 in 7th Judicial District, Lemhi County and are recorded as follows:

74-0005
AMOUNT: 1.00 cfs
PRIORITY: May 1, 1879
74-1669B

AMOUNT: 0.90 cfs
PRIORITY: May 5, 1893
POINT OF DIVERSION:
SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T.
21N, R. 23E, Lemhi County.

The water is used to irrigate 82.2 acres from April 1 to November 1 within the S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19; SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20; T. 21N, R. 23E.

TO BE CHANGED AS
FOLLOWS

The water will be diverted within the SE $\frac{1}{4}$ -NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 21N, R. 23E, 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 April 20, 1981.

C. STEPHEN ALLRED
Director

Published in The Recorder-Herald 4/02 and 4/09/81.

4-2-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

APR 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 Notice of Proposed Change Water Rts.-74-0005, 74-1669B

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 April 2, 1981 and ending with the issue dated April 9, 1981.

Jerry G. Rosin

Subscribed and sworn to before me, this ninth day of April, 1981.

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

Publication Fee \$ 23.41

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER

NO. 74-0005/74-1669B IN THE NAME OF

E. DALE JOLLEY AND/OR MILDRED H. JOLLEY

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT on this 13th day of May, a true and correct copy of
the foregoing MEMORANDUM DECISION AND ORDER was mailed postage prepaid to:

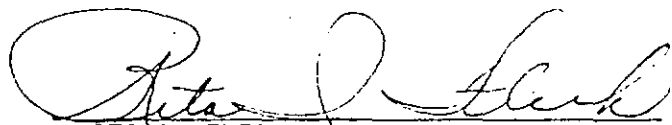
E. Dale and Mildred H. Jolley
Route 1
Box 15
Salmon, ID 83467

Joseph Tonsmeire
c/o James Herndon
Herndon Hotel Block
Salmon, ID 83467

James C. Herndon
Acting Secretary
Lemhi Irrigation District
Herndon Hotel Block
Salmon, ID 83467

Vergil O. Olson
Route 1, Box 12
Salmon, ID 83467

Verdell Olson
Route 1, Box 17-A
Salmon, ID 83467



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

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2. Use of water under this transfer is subject to control by the watermaster of Water District 74-A, Geertson Creek.

3. Diversion of water under rights 74-0005 and 74-1669B shall be only from the point of diversion in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E B.M.

4. Each of the rights included in this transfer shall be used only on the lands to which they are appurtenant as listed in the records of the Idaho Department of Water Resources. The right holder shall not use nor demand delivery of water by the watermaster for use on lands to which the rights are not appurtenant.

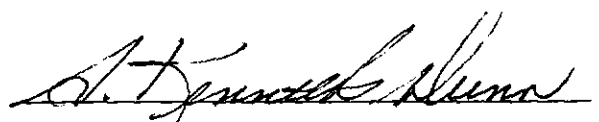
5. The right holder shall provide reasonable access to the watermaster to inspect the point of diversion and place of use for water being diverted under this transfer.

6. Failure of the right holder to comply with the conditions of this approval shall constitute cause for the Director of the Idaho Department of Water Resources to revoke approval of this transfer.

7. The Director of the Idaho Department of Water Resources retains jurisdiction of this approval to insure compliance with the conditions listed herein.

8. This approval is not intended to confirm the validity of claim to a water right No. 74-1669B.

Signed this 12 day of May, 1982.



A. KENNETH DUNN

Director

MICROFILMED

in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E. Dale Jolley acknowledged that the recorded point of diversion was no longer indicated in the Proposed Finding of Water Rights in the Lemhi River Basin and it was not his intention to retain the old point of diversion. Mr. Jolley then amended his application to show a single point of diversion in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E, B.M. Kent Foster emphasized that his clients wished to change only the recorded point of diversion; all other aspects of these rights would remain unchanged.

Vergil Olson indicated that the applicants' practice of diverting these rights through the proposed point of diversion has resulted in the water being used on lands that were not listed in the Proposed Finding of Water Rights. He also stated that improper administration of the creek by the watermaster has benefited upstream diverters, which included the applicants, while adversely effecting delivery of water rights to diversions lower on the creek. Verdell Olson also expressed opposition to the water being used on lands that were developed after the rights were established. The Director having listened to the record made at the hearing in conformance with Idaho Code, Sec. 67-5211 and based upon the testimony obtained at the hearing, the files and records of the Department and his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law, and Order.

Review of Evidence

Department Records Considered

1. Application for transfer of water rights No. 74-0005 and 74-1669B receipted March 20, 1981.
2. Affidavit of publication of notice of application for transfer received April 10, 1981.
3. Letters of protest from Lemhi Irrigation District and Joseph Tonsmeire received April 8, 1981 and a letter of protest from Vergil O. Olson and Verdell Olson received April 9, 1981.
4. Proposed Finding of Water Rights in the Lemhi River Basin, Case No. 4948 in the Seventh Judicial District Court, Lemhi County.
5. Withdrawal of protest from Lemhi Irrigation District and Joseph Tonsmeire received August 17, 1981.

FINDINGS OF FACT

1. The Proposed Finding of Water Right, Lemhi River Drainage, describe the point of diversion of right Nos. 74-0005 and 74-1669B as located in the

SW1/4SE1/4, Sec. 17, Twp. 21N, Rge. 23E and the place of use as the 82.2 acres of land in the SW1/4NE1/4, SE1/4NE1/4, NW1/4SE1/4, Sec. 19, SW1/4NW1/4, Sec. 20, Twp. 21N, Rge. 23E. Rights No. 74-0002 and 74-1669A were diverted from a point in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E for the irrigation of 102.4 acres in Lot 3, Lot 4, SE1/4SW1/4, Sec. 18, NE1/4NE1/4, NW1/4NE1/4, SEC. 19, Twp. 21N, Rge. 23E. An additional 8.8 acres in the NE1/4NW1/4, Sec. 19, Twp. 21N, Rge. 23E was also irrigated under right No. 74-1669A.

2. Rights No. 74-1669A and 74-1669B both have a priority of May 5, 1893. If diverted through the same heading, they could be regulated as a single right appurtenant to 193.4 acres. These lands are also the place of use for decreed water right No. 74-0002 and 74-0005.

3. Right No. 74-0002 and 74-0005 have priorities of May 1, 1870 and May 1, 1879 respectively. However, these rights are consecutive in the decree, i.e. there are no intervening rights between them. Thus, these rights could be delivered by the watermaster at a common point of diversion and would be appurtenant to all the lands covered by rights No. 74-1669A and 74-1669B except 8.8 acres in the NE1/4NW1/4, Sec. 19, Twp. 21N, Rge. 23E.

CONCLUSIONS OF LAW

1. The elimination of a point of diversion in the SW1/4SE1/4, Sec. 17, Twp. 21N, Rge. 23E and the subsequent delivery of right No. 74-0002, 74-0005, 74-1669A and 74-1669B in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge 23E will simplify the regulation of these rights by the watermaster.

2. The change proposed by this application does not expand or enlarge rights No. 74-0005 and 74-1669B.

3. The relocation of the point of diversion for right No. 74-0005 and 74-1669B will not adversely affect the protestants' water rights in Water District 74-A, Geertson Creek.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Transfer of Water Right No. 74-0005 and 74-1669B be and is APPROVED subject to the following 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 at the applicants' point of diversion in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E B.M., prior to diversion of water under this approval.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER)
NO. 74-0005/74-1669B IN THE NAME OF)
E. DALE JOLLEY AND/OR MILDRED H. JOLLEY)

MEMORANDUM DECISION
AND ORDER

On March 20, 1981, E. Dale and or Mildred H. Jolley applied to the Department of Water Resources for an application to add a point of diversion to rights No. 74-0005 and 74-1669B. These rights are listed in the Proposed Finding of Water Rights in the Lemhi River Basin, Case No. 4948 in the Seventh Judicial District Court, Lemhi County. Right No. 74-0005 is based on a previous decree and right No. 74-1669B is based upon diversion and beneficial use of the water. The new point of diversion would be in the SE1/4NE1/4, Sec. 17, Twp. 21N, Rge. 23E, B.M. and would be used in conjunction with the diversion of record located in the SW1/4SE1/4, Sec. 17, Twp. 21N, Rge. 23E, B.M., Lemhi County. No change was requested in the place of use.

Notice of the application was published in the Recorder Herald, Salmon, Idaho, on April 2 and 9, 1981. The application was subsequently protested on April 8, 1981, by the Lemhi Irrigation District and Joseph Tonsmeire. Additional protests were received on April 9, 1981 from Vergil O. Olson and Verdell Olson.

On August 7, 1981, the Department conducted a hearing in the matter at the Lemhi County Courthouse, Salmon, Idaho. The protestant, Joseph Tonsmeire, was present and was represented by James C. Herndon, Attorney at Law. As acting secretary, Mr. Herndon, also represented the Lemhi Irrigation District. The protestants, Vergil Olson and Verdell Olson, were present and represented themselves. The applicants were present and represented by Kent Foster, Attorney at Law. At the conclusion of the pre-hearing conference the protestants, Joseph Tonsmeire and the Lemhi Irrigation District, both withdrew their protest against granting the application for transfer.

Kent Foster, on behalf of his clients stated that the intent of this application was to update the Proposed Finding of Water Rights in the Lemhi River Basin to be consistent with existing practice. He indicated that for several years, his clients have been diverting rights No. 74-0005 and 74-1669B

RECEIVED
MAY 10 1981

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 E. Dale &/or Mildred H. Jolley Phone 756-3461Post office address Route #1, Box 15, Salmon, ID 83467**A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**a. Decree to E. Dale &/or Mildred H. Jolley 74-0005 and 74-1669B
(Name)in case of Proposed Finding of Water vs _____dated Rights in Lemhi River Basin Civil Case No. 4948
in 7th Judicial Dist. county of Lemhi
(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 appurtenantApplicant is original holder of right.**3. Source of water** Geertson Creek tributary to Lemhi River**4. Date of priority** 5/1/1879 (74-0005) 5/5/1893 (74-1669B)**5. Water is used for the following purposes:**74-0005 amount 1.00 for irrigation purposes from 4/1 to 11/174-1669B amount 0.90 for irrigation purposes from 4/1 to 11/1amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)**6. Total amount of water under right:** a. 1.90 cubic feet per second
&/or
b. _____ acre feet per annum**7. Location of original point of diversion is** SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 17Township 21N Range 23E, B.M., in Lemhi County

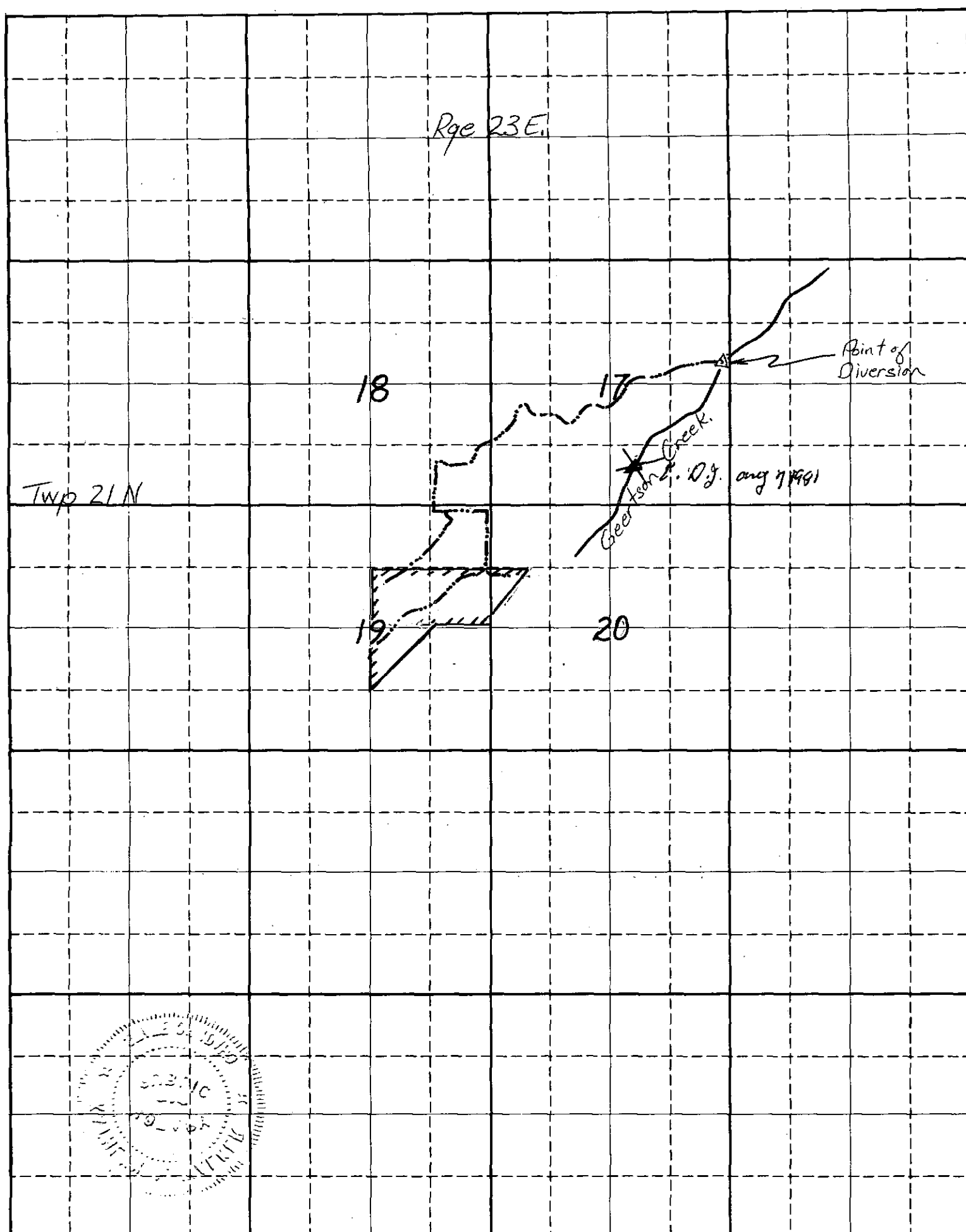
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

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 $\frac{1}{4}$	
					22.3														
21N	23E	19			31.4											19.3			73.0
		20							9.2										9.2

Total number of acres to be irrigated 82.2**9. Describe any other water rights used for the same purposes as described above** Late priorityrights proposed in stipulation still pending judgement by the court.

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

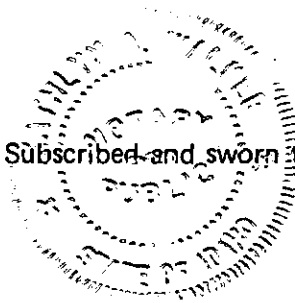


SCALE: 2 inches equal 1 mile. Draw plan in ink.

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4. Remarks Right No. 74-0002 and 74-1669A are also diverted from the
point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, Twp. 21N, Rge. 23E

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



E. Dale Kelley
(Signature of applicant)

Subscribed and sworn to before me this 20 day of March, 1981.

Kathleen A. Walker
(Notary public)

My commission expires 2/15/1983

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 74-0005 & 74-1669B
and said application is hereby APPROVED, subject to the following limitations and conditions:
PURSUANT TO MEMORANDUM DECISION AND ORDER

Witness my hand this 13th day of May, 1982.

L. Glen Saxton

L. GLEN SAXTON, Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by EMC Date March 20, 1981 Protest filed by _____

Prelim. check by _____ Fee _____

Received by KW Date 3/20/81 # 17115

Published in Becker-Deer Herald Copies of protest forwarded by _____

Pub. dates 4/02 & 4/09/81 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for approval denial

rec'd. 4-13-1981 by EMC

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APR 13 1981

NOTICE OF PROPOSED
CHANGE OF WATER
RIGHTS

NOS. 74-0005 &
74-1669B

Notice is hereby given that E. Dale &/or Mildred H. Jolley, Salmon, Idaho have applied to the Department of Water Resources for a change in the points of diversion of the waters of Geertson Creek tributary to Lemhi River. The rights sought to be changed are evidenced by decree to E. Dale &/or Mildred H. Jolley in case of Proposed Finding of Water Rights in Lemhi River Basin, Civil Case No. 4948 in 7th Judicial District, Lemhi County and are recorded as follows:

74-0005
AMOUNT: 1.00 cfs
PRIORITY: May 1, 1879
74-1669B

AMOUNT: 0.90 cfs
PRIORITY: May 5, 1893
POINT OF DIVERSION:
SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 21N, R. 23E, Lemhi County.

The water is used to irrigate 82.2 acres from April 1 to November 1 within the S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19; SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20; T. 21N, R. 23E.

TO BE CHANGED AS
FOLLOWS

The water will be diverted within the SE $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 21N, R. 23E, 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 April 20, 1981.

C. STEPHEN ALLRED
Director

Published in The Recorder-Herald 4/02 and 4/09/81.

4-2-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

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APR 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 Notice of Proposed Change Water Rts.-74-0005, 74-1669B

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 April 2, 1981 and ending with the issue dated April 9, 1981

Jerry G. Rosin

Subscribed and sworn to before me, this ninth day of April, 1981

Neil Armstrong

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

Publication Fee \$ 23.41

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0515	SANTOS, A. M. and/or Verne Route 1 Salmon, Idaho	5-5-1893	Irrigation	4/1 11/1	0.74	NW $\frac{1}{4}$ SW $\frac{1}{4}$, S.20 T21N, R23E	Sec. 19 SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20 SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30 NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, T21N, R23E	15.8 1.6 31.0 3.5 51.9 Beneficial Use
74-0918	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	5-5-1893	Irrigation	4/1 11/1	1.32	Sec. 4 SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T21N, R23E	Sec. 9 NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, T21N, R23E	36.0 30.0 66.0 Beneficial Use
74-1669A	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-5-1893	Irrigation	4/1 11/1	1.84	SE $\frac{1}{4}$ NE $\frac{1}{4}$, S.17 T21N, R23E	Sec. 18 Lot 3, Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19 NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, T21N, R23E	6.9 12.8 14.0 36.7 32.0 8.8 111.2 Beneficial Use
74-1669B	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-5-1893	Irrigation	4/1 11/1	0.90	SW $\frac{1}{4}$ SE $\frac{1}{4}$, S.17 T21N, R23E	Sec. 19 SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20 SW $\frac{1}{4}$ NW $\frac{1}{4}$, T21N, R23E	31.4 22.3 19.3 9.2 82.2 Beneficial Use

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AUG 7 1985

COPY
NO. Department of Water Resources
AM. P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

JOHN BASTIDA, Clerk
By JOLENE STEVENS
DEPUTY

VERGIL OLSON and VERDELL OLSON,

Petitioners-Appellants,

Case No. 79535

vs.

MEMORANDUM DECISION
ON PETITION FOR
REVIEW

A. KENNETH DUNN, Director,
Idaho Department of Water
Resources,

Defendant-Respondent.

IN THE MATTER OF PROTEST AGAINST
APPROVAL OF APPLICATION FOR TRANS-
FER OF WATER RIGHTS NOS 74-0005
AND 74-1669B IN THE NAME OF DALE
AND/OR MILDRED H. JOLLEY,

Appearances:

Counsel for Petitioners/
Appellants

Ray W. Rigby, Esq.
Rigby, Thatcher, Andrus
Barton & Walters
P.O. Box 250
Rexburg, Idaho 83402

Counsel for Respondent/
State of Idaho

Phillip J. Rassier, Esq.
David J. Barber, Esq.
Deputy Attorneys General
Department of Water Resources
Statehouse
Boise, Idaho 83720

Counsel for Respondents/
E. Dale and/or Mildred
H. Jolley

Kent W. Foster, Esq.
Holden, Kidwell, Hahn
& Crapo
P.O. Box 129
Idaho Falls, Idaho 83402

MICROFILMED

1 This matter is declared submitted on briefs filed herein.
2 The Court finds on the record and briefs that this matter
3 should be remanded to the Idaho Department of Water Resources.
4 I.C. 67-5215(g).

5 The Court is advised that another case is pending in the
6 District Court of the Seventh Judicial of this State in which
7 the water rights of various parties are to be determined.
8 Those parties include some of the same parties involved in
9 the case at bar and the creek involved is the same one in
10 which we are here concerned.

11 Before the Department of Water Resources can make or
12 ratify a change in the point of diversion of an irrigation
13 water right, the Department must make a finding to determine
14 if other water rights are injured by the transfer. The
15 Department might well have great difficulty in deciding this
16 question in the light of uncertainty as to who has what
17 water rights at the moment to the creek in question.

18 The Department in its prior proceedings in this case
19 has made such a finding which in the light of presently
20 pending controversy would seem to constitute a premature
21 determination. Further, that finding was made notwithstanding
22 an uncontroverted declaration by Virgil Olson at the
23 hearing in Salmon, Idaho on August 7, 1982 to the contrary.
24 Olson's statement was made pro-se and was difficult to
25 understand, but it is apparent from the record that Jolley
26 was serving four water rights from the same point of

1 diversion, two of which were prima facie junior to Olson's
2 rights designated as numbers 74-0003 and 74-0008B. One of
3 these apparently inferior rights is No. 1669B.

4 The Department's Findings of Fact and Conclusions of Law
5 dated May 12, 1982, seemed primarily based on watermaster's
6 convenience more than on making sure the parties, especially
7 Olson, gets the water he is entitled to have according to the
8 priority of his right.

9 Since the basic water rights in this matter are in
10 litigation and since it cannot be determined for sure whether
11 the de facto change in diversion will affect Olson's water
12 rights, this case should be remanded to the Department to
13 be held in obedience until pending litigation is completed
14 and for taking further evidence on the matter of whether the
15 change in diversion affected existing water rights.

16 It is so ORDERED.

17 Dated this 6th day of August, 1985.

18
19
20 
21 HON. W. E. SMITH
22 District Judge
23
24
25
26

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

IN THE MATTER OF APPLICATION FOR TRANSFER)
OF WATER RIGHT NOS. 74-0005 & 74-1669B IN) ORDER
THE NAME OF E. DALE &/OR MILDRED H. JOLLEY)
_____)

WHEREAS, on May 12, 1982, the Director of the Department of Water Resources approved transfer No. 2537 to change the point of diversion of water right Nos. 74-0005 and 74-1669B; and,

WHEREAS, on June 1, 1982, a response, an objection and a request for a new proceeding was received from Matthew Mullaney, attorney for Vergil and Verdell Olson; and,

WHEREAS, the petition raised three objections to the decision as follows:

1. The Olsons have not waived their right to a Proposed Memorandum Decision and Order under the Administrative Procedure Act. The final action of the Director of May 12, 1982 is premature. A proposed decision should issue.

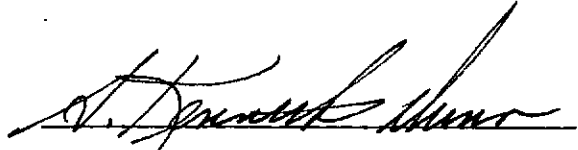
2. The action of the Director is contrary to law. Sections 42-108 and 42-222 require that a party gain prior approval to change a point of diversion or place of use. The evidence is uncontradicted that Jolley has already moved the point of diversion for right 74-0005 and 74-1669B to the higher point of diversion.

3. There is no competent and probative recommendation by the watermaster on the application for transfer as required by Section 42-222. The watermaster did not attend the hearing on the protest. Consequently, in the absence of any opportunity to confront the watermaster and to cross-examine him, there is no probative evidence from the watermaster to support the transfer of water rights.

WHEREAS, 1. the Director's review of the record would make oral argument and reiteration of that record by the parties meaningless; 2. the act of changing the point of diversion without receiving the required approval does not preclude a proper application for change ever being made; the remedy of a change being made without the necessary approval is to obtain that approval as quickly as possible; 3. the recommendation of the watermaster was received as required by Sec. 42-221, Idaho Code. The protestants could have, if they felt the watermaster's testimony critical to their position availed themselves of the procedure to assure the watermaster's presence.

THEREFORE, the petition for rehearing of Application for Transfer of water right Nos. 74-0005 and 74-1669B is hereby DENIED.

Dated this 20 day of July, 1982.



A. KENNETH DUNN

DIRECTOR

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER
NO. 74-0005/74-1669B IN THE NAME OF
E. DALE JOLLEY AND/OR MILDRED M. JOLLEY

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of July, 1982 a true and correct
copy of the foregoing ORDER was mailed postage prepaid to:

E. Dale and Mildred H. Jolley
Route 1, Box 15
Salmon, ID 83467

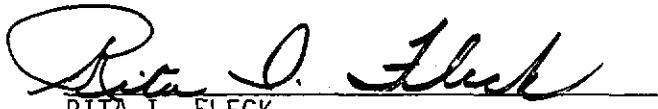
Joseph Tonsmeire
c/o James Herndon
Herndon Hotel Block
Salmon, ID 83467

James C. Herndon
Acting Secretary
Lemhi Irrigation District
Herndon Hotel Block
Salmon, ID 83467

Vergil O. Olson
Route 1 Box 12
Salmon, ID 83467

Verdell Olson
Route 1, Box 17-A
Salmon, ID 83467

Matthew Mullaney
802 W. Bannock St.
Boise, ID 83702


RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

June 3, 1982

Kent Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 129
Idaho Falls, ID 83702

Dear Mr. Foster:

Re: Application for Transfer No. 74-0005 and 74-1669B
E. Dale Jolley

Pursuant to your telephone conversation with Josephine Beeman of our office, enclosed is a copy of the Memorandum Decision and Order issued on the above-referenced matter.

From the Certificate of Service, I see that you have received a copy of Matt Mullaney's Response to Memorandum Decision and Order. Please be advised that you have fifteen days in which to respond to this before the department will take further action.

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

Sincerely,

RITA I. FLECK
Sr. Secretary

Enclosure

RECEIVED
JUN 10 1982

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 74-0005/74-1669B	)	RESPONSE TO MEMORANDUM
IN THE NAME OF E. DALE JOLLEY	)	
AND/OR MILDRED H. JOLLEY	)	DECISION AND ORDER

Comes now, Vergil Olson and Verdell Olson, by and through the undersigned counsel, and makes the following response and objections to the Memorandum Decision and Order entered in the above referenced matter by the Director on May 12, 1982.

1. The Olsons have not waived their right to a Proposed Memorandum Decision and Order under the Administrative Procedure Act. The final action of the Director of May 12, 1982 is premature. A proposed decision should issue.

2. The action of the Director is contrary to law. Sections 42-108 and 42-222 require that a party gain prior approval to change a point of diversion or place of use. The evidence is uncontradicted that Jolley has already moved the point of diversion for right 74-0005 and 74-1669B to the higher point of diversion.

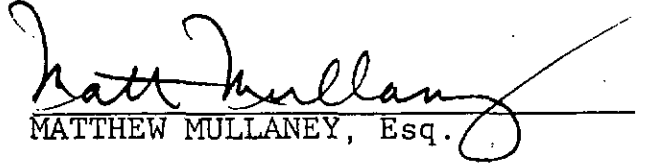
3. There is no competent and probative recommendation of the watermaster on the application for transfer as required by Section 42-222. The watermaster did not attend the hearing on the protest. Consequently, in the absence of any opportunity to confront the watermaster and to cross-examine him, there is no probative evidence from the watermaster to support the transfer of water rights.

MATTHEW MULLANEY, ESQUIRE
THE HOFF BUILDING / SUITE 308
802 WEST BANNOCK STREET
BOISE, IDAHO 83702
208-344-2860

RECEIVED
JUN 11 1982

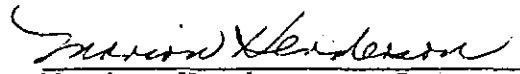
For the foregoing reasons, the Application for Transfer should be denied or, in the alternative, there should be an entirely new proceeding to support the application.

DATED: This 31st day of May, 1982.


MATTHEW MULLANEY, Esq.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing RESPONSE TO MEMORANDUM DECISION AND ORDER was sent by U.S. Mail, postage prepaid on the 1st day of June, 1982, to Kent W. Foster, Esq., P. O. Box 129, Idaho Falls, ID 83401.


Marion Henderson, Secretary
to Mr. Mullaney



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

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

May 13, 1982

E. Dale and Mildred H. Jolley
Route 1, Box 15
Salmon, ID 83467

Dear Mr. and Mrs. Jolley:

Re: Application for Transfer of Water Right No's. 74-0005 and 74-1669B

Enclosed is a copy of your approved Application for Transfer along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the order.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works. Enclosed is a list of the types of measuring devices acceptable by the department.

Any person who does not agree with the decision of the department may request a rehearing before the director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: James Herndon
Vergil O. Olson
Verdell Olson

MICROFILMED

74-0005/74-1669B Transfer - Dale Jolley

Commissioner's Room, Lemhi County Courthouse, Salmon, Idaho

Friday, August 7, 1981 (9:00 a.m.)

ROSTER OF ATTENDANCE

Hearing Officer _____

Name Address Representing

Mildred Jolley
Lucie Raymond
Katherine Albons

Guild Ramsey
Virgil O. Olson
Leonard Reay
Verdell Olson

Dale Jolley
Kent R. Vetter

Wahkiakums applicant
Albion attorney Jonsmeire

Wahkiakums
Jonsmeire

G. M. Santos
Terre Santos

MICROFILMED

Applicant

74-0005 & 74-1669 B

Dale Jolley

Protestant

Joseph Tonsmeire ^{Jim Harison} — Protest Withdrawn

Virgil Olsen

Verdell Olsen

Lenthi Irrigation District — Protest Withdrawn

Conference

Green Book shows SW SE 17

Lower Point — not used or used very little

Upper Point established

Objection

Objects to irrigation of new ground → 20 years ago —

Hearing

Kent Foster — 74-0005, 74-1669 B —

Transfer filed to correct an error in the described
point of diversion

Lower point of diversion should be ~~completed~~ — withdrawn

Virgil Olsen

~~There is~~ This application for change in the point of diversion

Injury caused by PD at upper PD =

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Virgil Olsen (cont)

Point of Diversion established in about 1943 -

Watermaster -

Verdell Olsen

Concerned about the place of use -

Objection by Mr Foster -

No objection was filed to the irrigation of the land -
since the pado

Objections to the last statement -

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Transfer 74-0005 & 74-1669 B.

Applicant - Dale Zolley & Mildred Zolley, represented by Kent Foster.

Protestants -

Joseph Tonsmeire, represented by James Herndon.

Virgil Olson.

Verdell Olson.

Zemhi Irrigation District represented by James Herndon.

- New point of diversion has been used for approximately 20 yrs.

- Tonsmeire - no objection provided

Virgil Olson - still objecting, because in practice the place of use has been changed.

NOTE: Send copy of withdrawal of protest to James Herndon.

Direct Virgil Olson - New point of diversion is pressure head gate, full right is delivered even if creek drops, lower diversions ~~also~~ have to absorb reduced flows due to ^{increased} loss in creek, and reduced flows.

Proposed change actually took place in 1963 or 1964.

- Leonard Regal: Watermaster doesn't remember if diversion was changed.

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Direct, Verdel Olson:

- Opposed to any change in the place of use that may be taking place.
- Not aware of Eushen proposed point of diversion was actually constructed.

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~~ON~~ THE MATTER OF APPLICATION
FOR TRANSFER # 74-0005 & 74-1669B

WITHDRAWAL
OF
PROTEST.

Based on the knowledge the above referenced application proposes to make a matter of record a change in point of diversion which took place several years ago and does not propose any exchange of Bohannon Creek water, we hereby withdraw our protest in this matter.

Signed the 7th day of August, 1981 in
Salmon Idaho

Quackenbush
Attorney for Yates and Mesmer
and Clerk in District

המחלקה
למחקר

LAW OFFICES OF
JAMES C. HERNDON
HERNDON HOTEL BLOCK
P. O. BOX 789
SALMON, IDAHO 83467

J. CHARLES HERNDON [1911-1966]

TELEPHONE 756-2412
AREA CODE 208

July 30, 1981

Idaho Dept. of Water Resources
Eastern District Office
150 Shoup
Idaho Falls, Idaho 83402

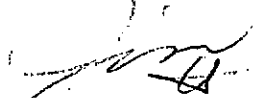
Attention: Ronald Carlson
Eastern Regional Supervisor

Re: Water Conferences

Dear Ron:

Thanks for your assistance in moving the hearing date.

Very truly yours,


JAMES C. HERNDON

JCH/th

RECEIVED

AUG 3 1981

Department of Water Resources
Eastern District Office

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

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

A. Kenneth Dunn
Director

July 28, 1981

James C. Herndon
Herndon Hotel Block
Salmon, ID 83467

Dear Mr. Herndon:

The Department is in receipt of your request to continue the hearings in the matter of Application for Transfer 74-0005/74-1669B, Applications for Permit 74-7086 and 74-7097. The Department is reluctant to reschedule these hearings because of our time restraints and the necessity to hold the hearings before the end of the 1981 irrigation season. Unless you can get the applicants to agree to a continuance I would suggest that you have someone else represent your clients during these proceedings.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RC:kw

Enclosures: requested copies of protests

MICROFILMED

LAW OFFICES OF
JAMES C. HERNDON
HERNDON HOTEL BLOCK
P. O. BOX 789
SALMON, IDAHO 83467

J. CHARLES HERNDON [1911-1966]

TELEPHONE 756-2412
AREA CODE 208

July 23, 1981

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JUL 27 1981

Department of Water Resources
Eastern District Office

Idaho Dept. of Water Resources
Eastern District Office
150 Shoup
Idaho Falls, Idaho 83401

Attention: Ronald Carlson
Regional Supervisor

Dear Ron:

I have just received notice that you have set hearings and/or conferences on water protests here in Salmon on August 6 and 7.

Please be advised that I have conflicts on both days. I will be in Boise on the 6th and in court at Challis on the 7th. Please accept this letter as my request that the matters be rescheduled.

1. In regards to the applications:

Continental Minerals Corporation is no longer a viable organization in our area. Their mining operation has ceased and they have pulled all their men and equipment out of the state.

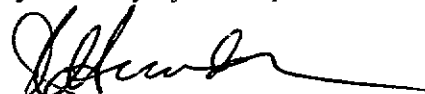
2. The matter of transfer for Jolley - 74-0005/74-1669B:

We did not receive a copy of the protest filed by Vergil Olson. Please send us one.

3. In the matter of applications for permit #74-7086:

We did not receive a copy of the protest filed by Herbert and Katherine Aldous and from his daughter and son-in-law, Wally and Suzie Raymond. Please send us one.

Very truly yours,


JAMES C. HERNDON

JCH/th

cc: Joseph Tonsmeire

MICROFILMED

DEPARTMENT OF WATER RESOURCES

NAME AND ADDRESS OF SENDER
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified

I certify that we have
☐ Commercial Insurance
☐ A deductible clause of \$

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

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6	17220 Alfred Klein, Rt. 1, St. Anthony	.18	.75	✓			.60				22-7300 -7316																																																																																								
7	17221 Conington Minerals Corp. P.O. Box 947, Salmon	.18	.75	✓			.60				74-7097																																																																																								
8	17222 R.A. Burch, Rt. 1, Box 10, Salmon	.18	.75	✓			.60				74-7097																																																																																								
9	17223 Gordon P. Smith, Attorney P.O. Box 1517, Salmon	.18	.75	✓			.60				74-7097																																																																																								
10	17224 C. Norman, Acting Secretary Banking Co. Dist., Box 789, Salmon	.35	.75	✓	see 74-7097 for receipt		.60				74-7097 74-0005																																																																																								
11	17225 Eli Smith, Box 171, Salmon	.18	.75	✓			.60				74-7097																																																																																								
12	17226 Purple Heart Benton Family Co. Rt. 1, Box 5, Salmon	.18	.75	✓			.60				74-7097																																																																																								
13	17227 George E. Santee, Rt. 1, Box 2365, Salmon	.18	.75	✓			.60				73-7049																																																																																								
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JUL 29 1981

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Department of Water Resources
Eastern District Office



**DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.**

IDAHO FALLS, IDAHO 83401
(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

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1. The following service is requested (check one.) ☒ XX Show to whom and date delivered.....\$ ☐ Show to whom, date and address of delivery.....\$ ☐ RESTRICTED DELIVERY Show to whom and date delivered.....\$ ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery \$____							
(CONSULT POSTMASTER FOR FEES)							
2. ARTICLE ADDRESSED TO: Virgil Olson Route #1, Box 12 Salmon, ID 83467							
3. ARTICLE DESCRIPTION: <table border="1"> <tr> <td>REGISTERED NO.</td> <td>CERTIFIED NO.</td> <td>INSURED NO.</td> </tr> <tr> <td></td> <td>17240</td> <td></td> </tr> </table> (Always obtain signature of addressee or agent)		REGISTERED NO.	CERTIFIED NO.	INSURED NO.		17240	
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	17240						
I have received the article described above. SIGNATURE <u>Virgil Olson</u> ☐ Authorized agent							
4. DATE OF DELIVERY JUL 28 1981	POSTMARK SALMON ID 83467						
5. ADDRESS (Collect only if requested) JUL 28 1981							
6. UNABLE TO DELIVER BECAUSE: Virgil O. Olson Jr							
7. CLERK'S INITIALS HC							

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DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

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IDAHO FALLS, IDAHO 83401
(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.							
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(CONSULT POSTMASTER FOR FEES)							
2. ARTICLE ADDRESSED TO: E. Dale &/or Mildred H. Jolley Route #1, Box 15 Salmon, ID 83467							
3. ARTICLE DESCRIPTION: <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">REGISTERED NO.</td> <td style="width: 50%;">CERTIFIED NO.</td> <td style="width: 50%;">INSURED NO.</td> </tr> <tr> <td></td> <td>17239</td> <td></td> </tr> </table>		REGISTERED NO.	CERTIFIED NO.	INSURED NO.		17239	
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TO**



DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE.

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(City, State, and ZIP Code)

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JUL 29 1981

Department of Water Resources
Eastern District Office

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(CONSULT POSTMASTER FOR FEES)							
2. ARTICLE ADDRESSED TO: Verrell Olson Route #1, Box 17A Salmon, ID 83467							
3. ARTICLE DESCRIPTION: <table border="1"> <tr> <td>REGISTERED NO.</td> <td>CERTIFIED NO.</td> <td>INSURED NO.</td> </tr> <tr> <td></td> <td>17241</td> <td></td> </tr> </table>		REGISTERED NO.	CERTIFIED NO.	INSURED NO.		17241	
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I have received the article described above. SIGNATURE: <i>Verrell Olson</i> Address: Authorized agent							
4. DATE OF DELIVERY <i>JUL 28 1981</i>	POSTMARK 						
5. ADDRESS (Complete only if requested)							
6. UNABLE TO DELIVER BECAUSE:							

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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- Endorse article "Return Receipt Requested" adjacent to number.

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USE TO AVOID PAYMENT
OF POSTAGE, \$300



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DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE.

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

RECEIVED

JUL 24 1981

Department of Water Resources
Eastern District Office

1. SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.							
1. The following service is requested (check one.) ☒ Show to whom and date delivered..... ☐ Show to whom, date and address of delivery..... ☐ RESTRICTED DELIVERY Show to whom and date delivered..... ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery \$ ____							
(CONSULT POSTMASTER FOR FEES)							
2. ARTICLE ADDRESSED TO: Joseph Tonsmeire, c/o Herndon P.O. Box 789 Salmon, ID 83467							
3. ARTICLE DESCRIPTION: <table border="1"> <tr> <td>REGISTERED NO.</td> <td>CERTIFIED NO.</td> <td>INSURED NO.</td> </tr> <tr> <td></td> <td>17235</td> <td></td> </tr> </table>		REGISTERED NO.	CERTIFIED NO.	INSURED NO.		17235	
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(Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <i>Joseph Tonsmeire</i> ☒ Address ☐ Authorized agent							
4. DATE OF DELIVERY JUN 23 1981	POSTMARK 						
5. ADDRESS (Complete only if requested)							
6. UNABLE TO DELIVER BECAUSE:	CLERK'S INITIALS <i>[Signature]</i>						

~~all receipts~~
all receipts
are returned
kw

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

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 74-0005/74-1669B IN
THE NAME OF E. DALE &/OR MILDRED
H. JOLLEY

NOTICE OF HEARING
AND/OR CONFERENCE

On March 20, 1981, E. Dale and/or Mildred H. Jolley filed with the Department of Water Resources an application to transfer the public waters of the State of Idaho. On April 8, 1981, the Department received a protest against approval of said application from James C. Herndon, Acting Secretary, Lemhi Irrigation District and from Joseph Tonsmeire. On April 9, 1981, an additional protest was received from Vergil O. and Verdell Olson.

The Department has set the matter of protest for hearing for 9:00 a.m., Friday, August 7, 1981, in the Commissioner's Room, Lemhi County Courthouse, Salmon, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

In accordance with Idaho Code, Section 42-222, the following issues are involved in the consideration of the application and protest(s):

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

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof,

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AUG 11 1981
DEPT. OF WATER RESOURCES

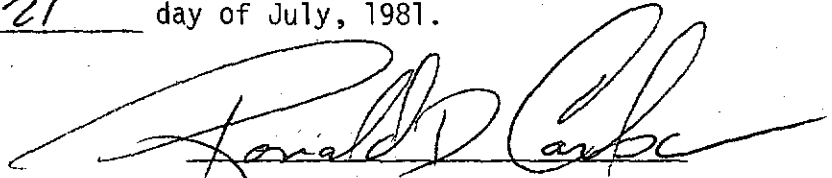
transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 21st day of July, 1981.



Regional Supervisor

W-1000000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: Steve McCormick

1. Right number 74-0005/1669B Applicant Tolley
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.

copy to
SO 3/31

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.
Not reg'd
- h. ☒ Check for expansion in use of right. Comments _____

4/20

- i. ☒ Check for existing water rights from same source, on land water is being transferred to.
NA
Right number(s) _____

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

If yes, what district? Lemhi River

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 3/31 Received on _____
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* See proposed memo.

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APR 23 1982

Department of Water Resources

By Ernest Carlson

Date April 29, 1980

Identification No. 74-0005 & 74-1669B

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Niel Ankrum, watermaster of Geertson Creek,
of Water District No. 74-A, County of Lemhi, State of Idaho,
whose address is Rt. 1 Box 47 Salmon, Idaho 83467,
have read the attached copy of the application for transfer of water right for
E. Dale &/or Mildred H. Jolley 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:

As stated in Application.

OR

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

Dated at April Salmon, Idaho, this 9 day of April, 1981.

Niel Ankrum
(Signature)

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APR 13 1981

Department of Water Resources
Eastern District Office

April 10, 1981

RE: Application for Transfer No. 74-0005/74-1669B

E. Dale &/or Mildred H. Jolley
Rt. #1, Box 15,
Salmon, Idaho 83467

Dear Mr. & Mrs. Jolley:

Enclosed please find copies of protests 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

Enclosures

cc: IDWR - State Office

MICROFILMED

April 10, 1981

RE: Application for Transfer No. 74-0005/74-1669B JOLLEY

Vergil O. Olson
Rt. #1, Box 12
Salmon, Idaho 83467

Dear Mr. Olson:

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

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APR 14 1981

April 10, 1981

RE: Application for Transfer No. 74-0005/74-1669B JOLLEY

Verdell Olson
Rt. #1, Box 17-A
Salmon, Idaho 83467

Dear Mr. Olson:

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

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APR 11 1981
IDWR

April 10, 1981

RE: Application for Transfer No. 74-0005/74-1669B JOLLEY

James C. Herndon
Acting Secretary
Lemhi Irrigation District
Herndon Hotel Block
Salmon, Idaho 83467

Dear Mr. Herndon:

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
APR 11 1981
IDWR

April 10, 1981

RE: Application for Transfer No. 74-0005/74-1669B JOLLEY

Joseph Tonsmaire
c/o James C. Herndon
Herndon Hotel Block
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

APR 11 1981

Salmon Idaho
April 8, 1981

Dept of Water Resource
Idaho Falls, Idaho

Dear Sirs;

I am apposing changing the point of
diversion of Dake Gulch to the SE $\frac{1}{4}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 17, T 21 N, R 23 E Lemhi county
He has lost his right to use
the ditch on my private ground as
he has not used his right on
Gerton Creek for 13 years or more.

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APR 9 1981

Department of Water Resources
Eastern District Office

Vergil O Olson
Salmon

Box 12 Rt 1 Idaho,
83467

I am apposing changing the point of
diversion as ~~for~~ preceding paragraph I have
the ranch leased because of the lost of
right away through the ranch.

Verdell Olson
Rt 1 Box 17A
Salmon, Idaho

83467

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PROTEST OF PROPOSED CHANGE OF WATER RIGHT

TO: Director of the Idaho Department
of Water Resources
150 Shoup Ave.
Idaho Falls, Idaho 83401

and

Dale E. Jolley
Route #1, Box 15
Salmon, Idaho 83467

RE: Proposed Change of Water Right
No. 74-0005 and 74-1669B

Comes now Joseph Tonsmeire, one of the contract purchasers of the property formerly owned by Ralph Yates, et ux, and Herbert Aldous, et ux, and protests the above described application for proposed change of water right on the following grounds:

1. The proposed change adversely affects his water right and place of use which is downstream from the applicant.
2. That the change, if granted, would affect the volume of water beneficially used by protestor.

Dated this 6th day of April, 1981.

JOSEPH TONSMEIRE

By:

JOSEPH TONSMEIRE, Protestor

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RECEIVED

APR 8 1981

Department of Water Resources
Eastern District Office

PROTEST OF PROPOSED CHANGE OF WATER RIGHT

TO: Director of the Idaho Department
of Water Resources
150 Shoup Ave.
Idaho Falls, Idaho 83401

and

Dale E. Jolley
Route #1, Box 15
Salmon, Idaho 83467

RE: Proposed Change of Water Right
No. 74-0005 and 74-1669B

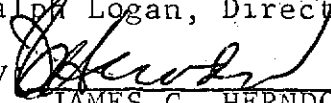
Comes now the Lemhi Irrigation District and protests the above described applications for proposed Change of Water Right on the following grounds:

1. That the Department of Water Resources has no jurisdiction to adjudicate the proposed change of water rights and place of use, because the matter is subject to, and involved in that certain action in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Lemhi, Civil Case No. 4948, commonly known as the Lemhi River Adjudication.
2. That the change of the point of use as proposed adversely affects the adjacent rights of the members of the Lemhi Irrigation District.
3. That the proposed changes adversely affect downstream water users.

Dated this 6th day of April, 1981.

LEMHI IRRIGATION DISTRICT
Kent Smith, Chairman
Jack Powers, Vice-Chairman
Ralph Logan, Director

By


JAMES C. HERNDON
Acting Secretary

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APR 8 1981

Department of Water Resources
Eastern District Office

150 Shoup Ave. -----

525-7161

March 31, 1981

RE: Application for Transfer of Water Right Nos. 74-0005 & 74-1669B
DALE JOLLEY

Neil Ankrum
Watermaster, Water District No. 74-A
Route #1, Box 47
Salmon, ID 83467

Dear Mr. Ankrum:

Please find enclosed a copy of the above referenced application and a watermaster recommendation form. Please ~~review~~ review the application and complete the form, returning it to this office on or before April 20, 1981.

Thank you for your cooperation in this matter.

Sincerely,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosures

RECORDED

150 Shoup Ave. -----

525-1161

March 31, 1981

RE: Application for Transfer of Water Right Nos. 74-0005 & 75-1669B

Da Dale &/or Mildred H. Jolley
Route #1, Box 15
Salmon, ID 83467

Dear Mr. and Mrs. Jolley:

Attached herewith is Departmental Receipt No. 17115 in the amount of \$50.00 for the above referenced application.

Sincerely,

KAY WALKER
Secretary

KW:k
Attachment

RECORDED

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

NOS. 74-0005 & 74-1669B

Notice is hereby given that E. Dale &/or Mildred H. Jolley, Salmon, Idaho have applied to the Department of Water Resources for a change in the points of diversion of the waters of Geertson Creek tributary to Lemhi River. The rights sought to be changed are evidenced by decree to E. Dale &/or Mildred H. Jolley in case of Proposed Finding of Water Rights in Lemhi River Basin, Civil Case No. 4948 in 7th Judicial District, Lemhi County and are recorded as follows:

74-0005

AMOUNT: 1.00 cfs

PRIORITY: May 1, 1879

74-1669B

AMOUNT: 0.90 cfs

PRIORITY: May 5, 1893

POINT OF DIVERSION: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 21N, R. 23E, Lemhi County.

The water is used to irrigate 82.2 acres from April 1 to November 1 within the S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19; SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20; T. 21N, R. 23E.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, T. 21N, R. 23E, 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 April 20, 1981.

C. STEPHEN ALLRED

Director

Published in the Recorder-Herald 4/02 and 4/09/81.

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