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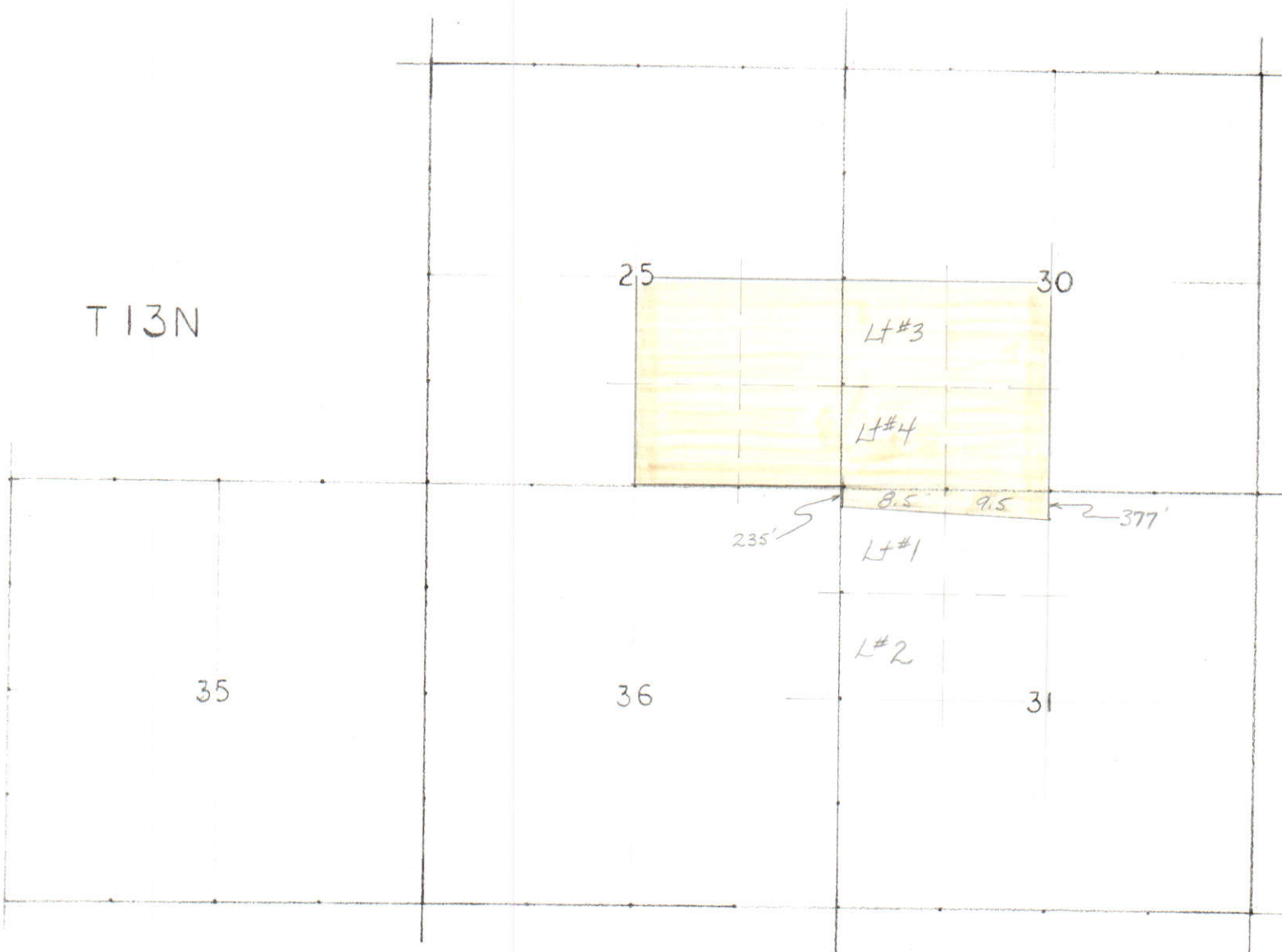
OCT 10 1984

Department of Water Resources
Eastern District Office

R 23E

R 24E

T 13N



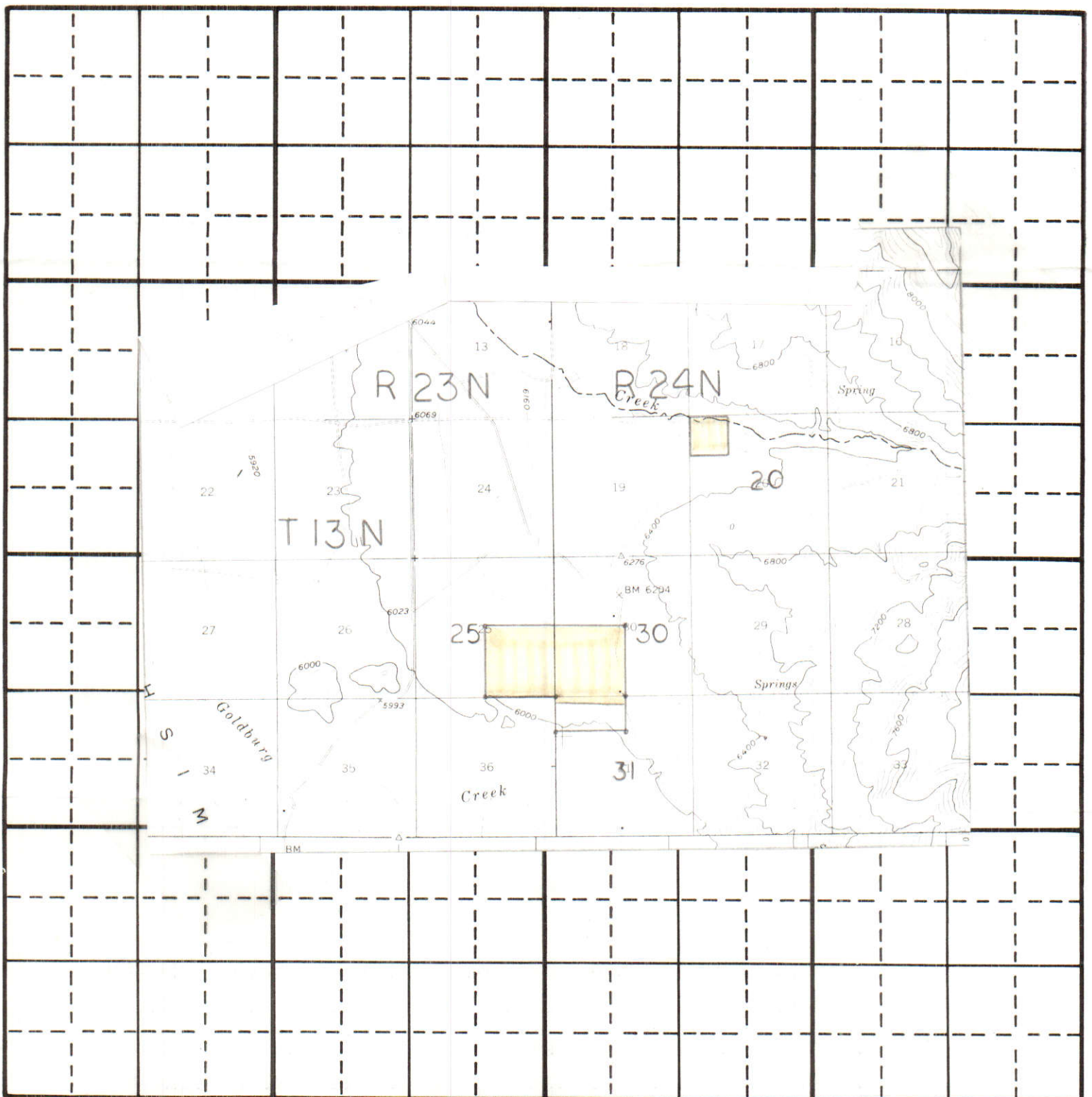
MICROFILMED

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	
13N	23E	25													40	40	40	40	160
13N	24E	30								40	L-3 40	L-4 40	40						160
		31					9.5	L-1 8.5											18

Total number of acres to be irrigated 338

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

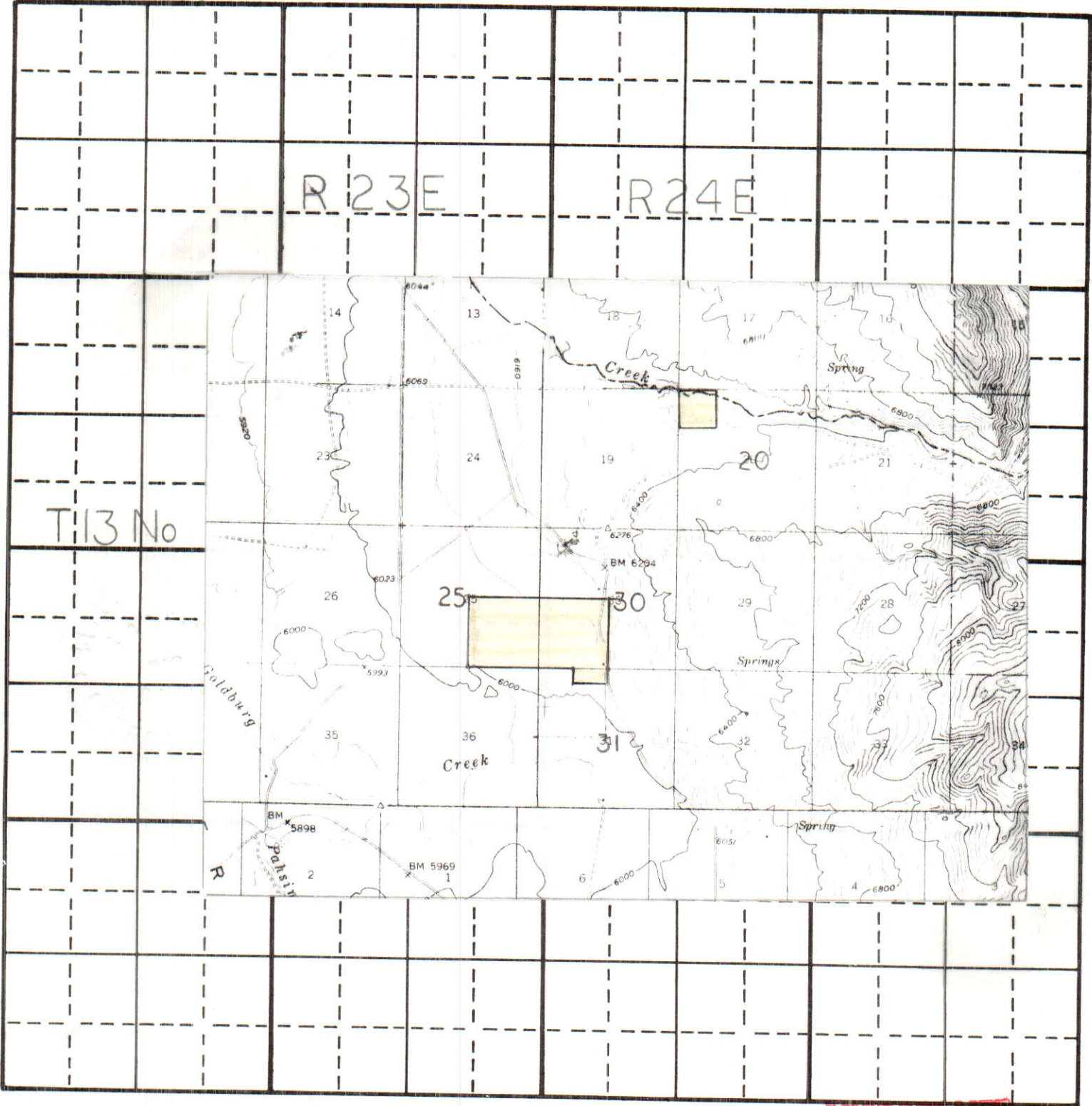
MICROFILMED

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	
13N	23E	25													40	40	40	40	160
13N	24E	30								40	39.	39.							158.8
		31					18							40					18

Total number of acres to be irrigated 336.8

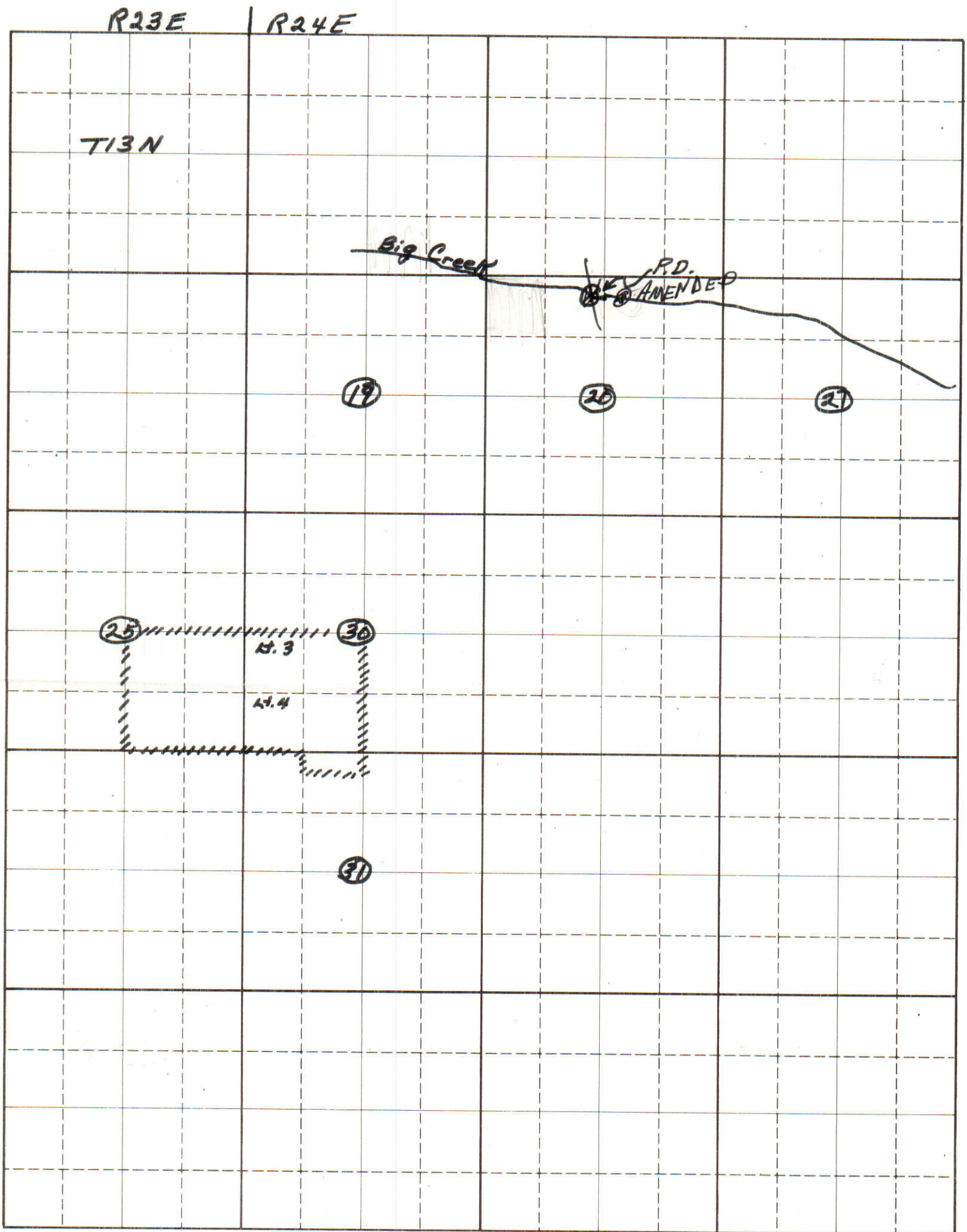
4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

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- b. 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.

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS
Publisher of the Challis Messenger,
a weekly newspaper, published at
Challis, Idaho, do solemnly swear
that the notice hereto attached and
made a part hereof, was published
in the regular and entire issue of
the Challis Messenger for 2
consecutive weeks, commencing with
the issue dated APR 22,
19 76 and ending with the issue
dated APR 29, 19 76.

Margaret Parks

Subscribed and sworn to before
me this 30 day of April,
19 76.

Rebecca Binstedt
Notary Public, residing at Challis,
Idaho. My commission expires on

10-24-77

RECEIVED

MAY 3 1976

Department of Water Resources
Eastern District Office

**NOTICE OF PROPOSED
AMENDING TRANSFER**
NO. 73-0172

Notice is hereby given that
Transfer No. 73-0172 in the name of E.
B. Cunningham was filed for the
diversion of 9.00 c.f.s. of water from
Big Creek tributary to Pahsimeroi
River with the point of diversion
within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T.
13N, R. 24E, B.M., Custer County; to
be used from Apr. 1 to Nov. 1 for
irrigation purposes.

The right holder now proposes to
amend Transfer No. 73-0172
changing the point of diversion to the
NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E,
B.M., Custer County.

Any protest to the proposed
amending Transfer No. 73-0172 must
be filed with the Idaho Department of
Water Resources, 1515 Lincoln Road,
Idaho Falls, Idaho, on or before May
10, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis
Messenger, Challis, Idaho, on April
22 and April 29, 1976.

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS.....

Publisher of the Challis Messenger,
a weekly newspaper, published at
Challis, Idaho, do solemnly swear
that the notice hereto attached and
made a part hereof, was published
in the regular and entire issue of
the Challis Messenger for 2.....
consecutive weeks, commencing with
the issue dated APR 8.....,
1976 and ending with the issue
dated APR 15....., 1976..

Margaret Parks.....

Subscribed and sworn to before
me this 16 day of April.....,
1976..

Rebecca Bulsted.....

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

10-24-77.....

RECEIVED

APR 19 1976

Department of Water Resources
Eastern District Office

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 73-0172

Notice is hereby given that E. B. Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Big Creek tributary to Pahsimeroi River. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et al -vs- Uriah Wells, et al (amended), dated Dec. 28, 1910 in 6th Judicial Court, County of Custer and is recorded as follows.

AMOUNT: 9:00 c.f.s.

PRIORITY: July 8, 1885

DECREED POINT OF DIVERSION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, T. 13N, R. 24E, B.M., Custer County.

The water is used to irrigate lands within the N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E; SW $\frac{1}{4}$, Sec. 30 NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; and used to irrigate 336.8 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before April 26, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis
Messenger, Challis, Idaho on April 8
and April 15, 1976.

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated APR 11 1985 and ending with the issue dated APR 18 1985

Margaret Parks
Subscribed and sworn to before this 19 day of April 1985

Ethel M. Beck
Notary Public, residing at Challis, Idaho. My commission expires on Life

ER -

NOTICE OF PROPOSED CHANGE OF WATER RIGHT Amended 1699/73-0172

Notice is hereby given that Wayne Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the above referenced transfer. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et. al. vs. Uriah Wells, et. al. (Amended) dated in 12-28-1910 in 6th Judicial Court, county of Custer and is recorded as follows:

AMOUNT: 9.00 cfs

PRIORITY: July 8, 1885

SOURCE: Big Creek tributary to Pahsimeroi River

DECREED POINT OF DIVER-
SION: Not specified.

The water is used to irrigate lands within the N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M. Custer County, to be used for the irrigation of 338 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW (Lot 1), Sec. 31, T. 13N, R. 24E, B.M.

Any protest against the approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402 on or before April 18, 1985.

NETH DUNN
Director

Published April 18, 1985.

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APR 22 1985

Department of Water Resources
Eastern District Office

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Transfer No. 1966
1699Water Right No. 73-0172STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT

APPROVED

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

Name of applicant WAYNE CUNNINGHAM Phone _____Post Office address May, Idaho 83253

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 73-0172 Decreed to Henry Davis & Thomas Davis
(Name)
in case of Lorenzo Falls, et al vs Uriah Wells, et al (Amended)
dated in 12-28-1910 in 6th Judicial county of Custer
(Name of court)

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

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

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Right acquired through purchase of land.

3. Source of water Big Creek tributary to Pahsimeroi River4. Date of priority 7-8-1885

5. Water is used for the following purposes:

NOTE: * Indicates information was not provided for in the decree,

amount 9.00 for Irrigation purposes from * to _____
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 9.00 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is * $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____

Township _____ Range _____, B.M., in _____ 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 $\frac{1}{4}$	
13N	23E	25	X	X													X	X	*
13N	24E	30									X	L-3 X	L-4 X	X					*
		31					18												18

Total number of acres to be irrigated *9. Describe any other water rights used for the same purpose as described above None

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

If yes, describe in item D. REMARKS

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
- ✓ Point of diversion _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____ Township _____
Range _____, B.M., _____ County
- Additional points _____

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3. 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 $\frac{1}{4}$	

Total number of acres to be irrigated _____

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

1. General Information

- a. Amount of water to be diverted 9.00 c.f.s. &/or _____ acre feet
- b. Description of diverting works Headgate, weir, with open ditch to gravity flow pipeline.
- c. Describe the reasons for the proposed changes I have changed the method of irrigation from flood to gravity sprinkler. The sprinkler system has been in use for several years.

2. Change in point of diversion

Point of diversion NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20 Township 13N
Range 24E, B.M., Custer County

Additional points _____

3. Change in place of use

- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer Land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25 has never been irrigated under this water right, and is not being irrigated. The 8.5 acres being transferred from the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31 will continue to be irrigated under right 73-0160 (see transfer 1968).

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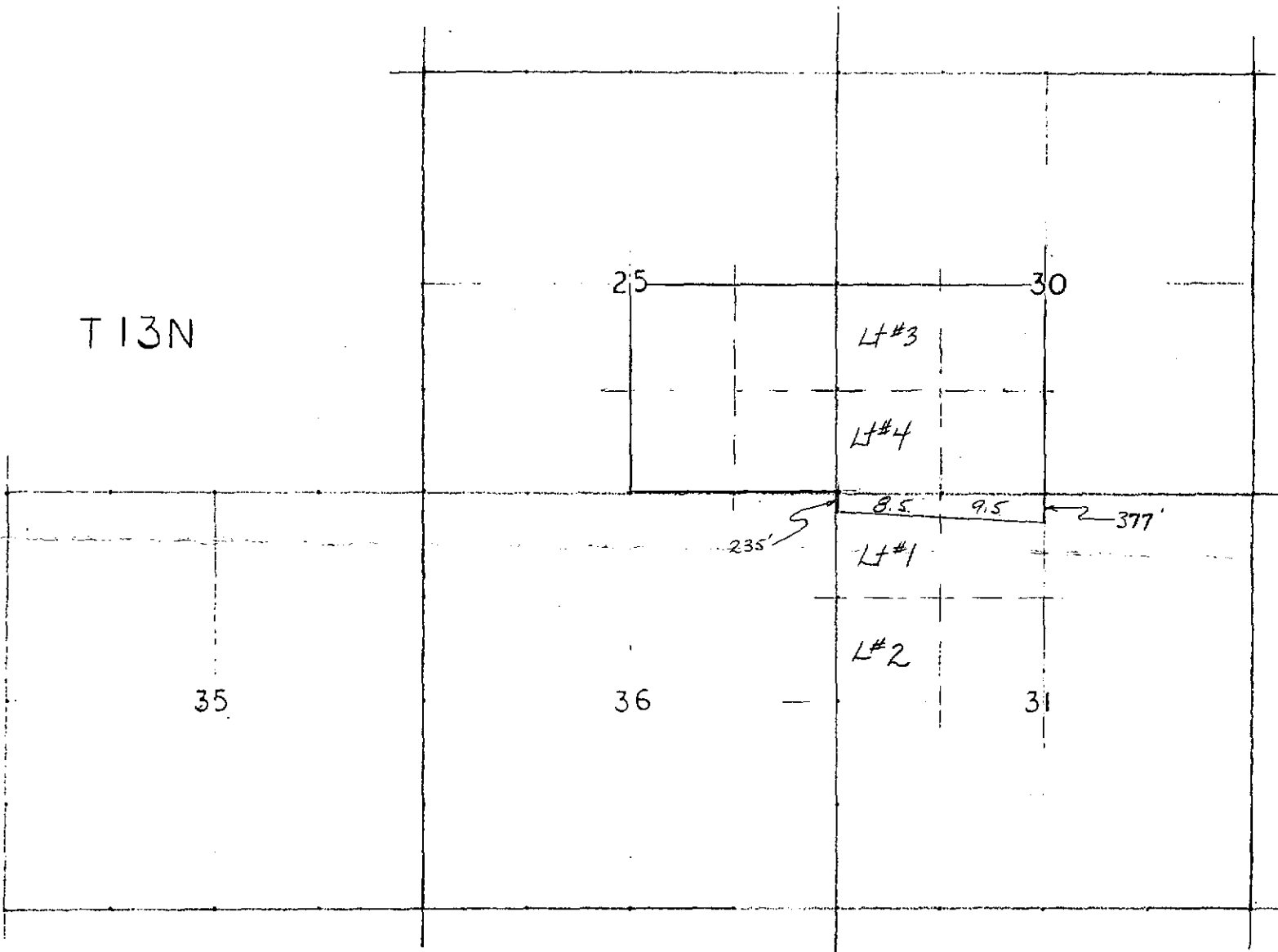
OCT 10 1984

Department of Water Resources
Eastern District Office

R 23E.

R 24E

T 13N



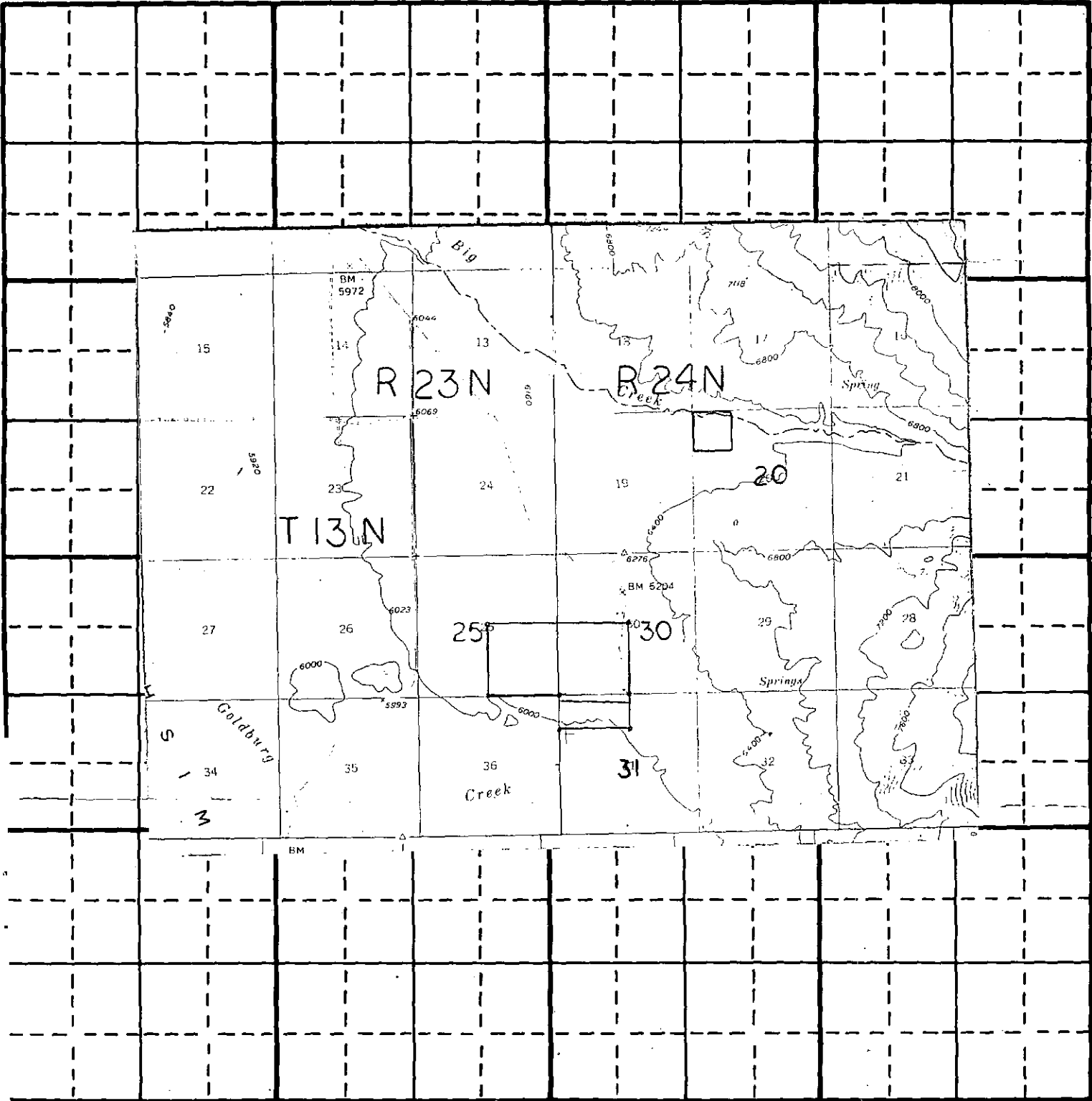
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c. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13N	23E	25													40	40	40	40	160
13N	24E	30									40	L-3 40	L-4 40	40					160
		31					9.5	L-1 8.5											18

Total number of acres to be irrigated 338

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

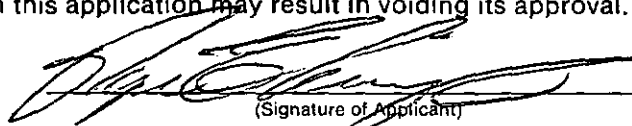
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D. REMARKS

I am filing this application to record the location for the diversion point of a gravity flow sprinkler system I share with James Whittier & Leon Ziegler. The application also reflects a change in place of use by describing the land that historically has been irrigated by decreed water right 73-0172.

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

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


(Signature of Applicant)

Subscribed and sworn to before me this 3 day of Oct, 1984


(Notary Public)

My commission expires Lifetime

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 73-0172

and said application is hereby APPROVED, subject to the following limitations and conditions:

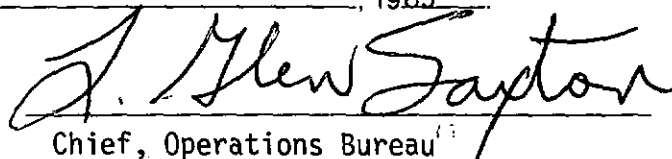
1. A measuring device and lockable controlling works of a type acceptable to the

~~Department shall be permanently installed and maintained as part of the diverting~~

works. 2. Use of water under this right is subject to control by the watermaster

of State Water District No. 73, Pahsimeroi River.

Witness my hand this 13 day of August, 1985


Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by CW Date 10-16-84

Protest filed by _____

Prelim. check by _____ Fee NONE

Receipted by _____ Date _____

Published in Custer Pub. Co.

Copies of protest forwarded by _____

Pub. dates 4-11 & 4-18-85

Hearing held by _____ Date _____

Watermaster recommendation requested on 4-11-85

Recommended for approval denial

WD #73 rec'd. 5-6-85

by RDC Jim

Recorded at Request of Elsiemae Cunningham Inter
17 Elsiemae E. Cunningham & family, Trust
 at Lib. M. Fee Paid \$ 4.00 May 31-1984
 by Ethel Beck Dep. Book Page Ref.
Viola Duffy
 Mail tax notice to 1584 E. 4160 St. Address Salt Lake City, Ut. 84124

WARRANTY DEED

ELSIEMAE CUNNINGHAM, a widow

grantor

of

County of

State of Utah, hereby

CONVEY and WARRANT to

WAYNE E. CUNNINGHAM and LORNA M. CUNNINGHAM, husband and wife, as joint tenants

grantee &

of

May

County

Custer

, State of ~~Idaho~~ Idaho

for the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged,

the following described tract of land in

CUSTER

County,

State of Utah, to-wit:

(See attached Schedule "A")

WITNESS the hand of said grantor, this

24th

day of

May

A. D. 1984

Signed in the presence of

Elsiemae Cunningham
 ELSIEMAE CUNNINGHAM

STATE OF UTAH

COUNTY OF SALT LAKE

{ SS.

MICROFILMED

On the 24th day of

May

A. D. 1984 personally

appeared before me ELSIEMAE CUNNINGHAM, a widow

the signer of the within instrument who duly acknowledged to me that she executed the same.

My Commission Expires:

Notary Public

8-11-85

Residing at

Salt Lake City, UT

SCHEDULE "A"

The following real property located in Custer County, State of Utah:

Township 13 North, Range 23 East, Boise Meridian, Custer County, Idaho.

Section 25: S 1/2 and SE 1/4 NW 1/4.

Township 13 North, Range 24 East, Boise Meridian, Custer County, Idaho.

Section 30: Lots 3 and 4, E 1/2 SW 1/4 LESS the following described parcel in the NE 1/4 SW 1/4 said Township and Range: Commencing at the Quarter Corner of Section 19 and 30, Township 13 North, Range 24 East, Boise Meridian, thence South 5°31' West, 3,423.4 feet; thence South 12° 43' West, 53.7 feet to the TRUE POINT OF BEGINNING; thence South 7° 16' East, 156.7 feet to the Southeast Corner of said parcel; thence North 77° 17' West, 502.1 feet to the Southwest Corner; thence North 12° 43' East, 200.0 feet to the Northwest Corner; thence South 77°17' East, 446.0 feet to the Northeast Corner, the Real Point of Beginning.

Section 31: A portion of Lot 1 and of the NE 1/4 NW 1/4, Tract No. 220, described as: Beginning at the Northeast Corner of the NW 1/4, Section 31, Township 13 North, Range 24 East, Boise Meridian; thence South 377 feet along the East line of said NW 1/4; thence Westerly one-half mile to a post on the Westline of the NW 1/4 of said Section 31, said post being 235 feet South of the Northwest corner of said Section 31; thence from said post North 235 feet along the West line of Section 31 to the Northwest corner thereof; thence East along the North section line one-half mile to the Place of Beginning.

SUBJECT TO that certain grant of easement dated May 6, 1976 executed by Elsiemae Cunningham to Bald Mountain Irrigation Company, Inc., recorded May 7, 1976 as instrument no. 142077, records of Custer County, Idaho.

TOGETHER WITH all water and water rights including culinary and irrigation, ditch and ditch rights, and range and range rights including the Donkey Hills Allotment, Pahsimeroi Valley in Grazing District No.4, appurtenant thereto or used in connection therewith; and TOGETHER WITH all lease rights from THE STATE OF IDAHO in and to Section 36, except the S 1/2 SE 1/4 thereof, T. 13 N., R. 23 E., B.M., Custer County, Idaho.

Wayne Cunningham
H/c 62 Box 2150
May, Id 83253

MICROFILMED

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SEP 4 1984

DISCLAIMER

Department of Water Resources
Eastern District Office

The undersigned hereby disclaims any right, title, equity or interest in that certain water right described as follows:

A certain 450 miners inch water right in Big Creek, a tributary of Pahsimeroi River, Salmon River Basin, Custer County, Idaho, bearing priority date of July 8, 1885, and as further evidenced by the Order Amending Decree dated the 28th day of December, 1910, signed by Special Judge George F. Hansbrough in the case of Falls vs. Wells within the Sixth Judicial District of the State of Idaho in and for the County of Custer, the same being originally decreed to Henry Davis and Thomas Davis in the amount of 450 inches, all of which is recorded as being appurtenant to: N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 25, Township 13 North, Range 23 East; E $\frac{1}{2}$ SW $\frac{1}{4}$, Lots 3 and 4, Section 30, 18 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 13 North, Range 24 East, Boise Meridian, Custer County, Idaho.

The undersigned by virtue of this Disclaimer disclaims any right and interest to any portion of this water right previously considered appurtenant to the undersigned's property in the N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 25, Township 13 North, Range 23 East.

The undersigned by this Disclaimer acknowledges in fact that all of this right is presently being used by Wayne E. Cunningham on property as follows:

N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 25, Township 13 North, Range 23 East; E $\frac{1}{2}$ SW $\frac{1}{4}$, Lots 3 and 4, Section 30, 18 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 13 North, Range 24 East, Boise Meridian, Custer County, Idaho.

The undersigned does not waive any right or rights to the use of any water other than the described decree or to any other water currently being applied to the property owned by him.

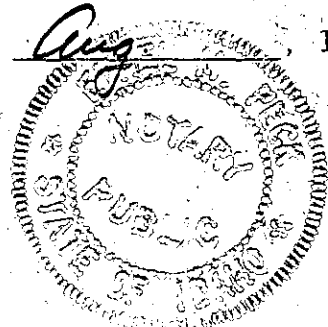
Dated:

8/28/84

Leon J. Hiegler

SUBSCRIBED and SWORN TO Before me this 28th

day of Aug, 1984.



Charles M. Peck

Notary Public for Idaho
Residing at Challis, Idaho
My Commission Expires Lifetime

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAMENDED**APPLICATION FOR TRANSFER OF WATER RIGHT**AMENDED**To Change the Point of Diversion and/or the Place of Use**VOIDName of applicant Wayne Cunningham Phone _____Post Office address May, ID 83253**A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**

a. Decree No. 73-0172 Decreed to Henry Davis & Thomas Davis
(Name)
in case of Lorenzo Falls, et al vs Uriah Wells, et al (amended)
dated in 12-28-1910 in 6th Judicial county of Custer
(Name of court)

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

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

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____
Purchase.

3. Source of water Big Creek tributary to Pahsimeroi River

4. Date of priority 7-08-1885

5. Water is used for the following purposes:

amount 9.00 for Irrigation purposes from 4-1 to 11-1
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 9.00 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18
Township 13N Range 24E, B.M., in Custer 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 $\frac{1}{4}$	
13N	23E	25	X	X													X	X	160
13N	24E	30									X	(L3)	(L4)	X					158.8
		31					18												18

Total number of acres to be irrigated 336.8

9. Describe any other water rights used for the same purpose as described above None

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

for _____

If yes, describe in item D. REMARKS

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. Place of use:

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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 _____

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

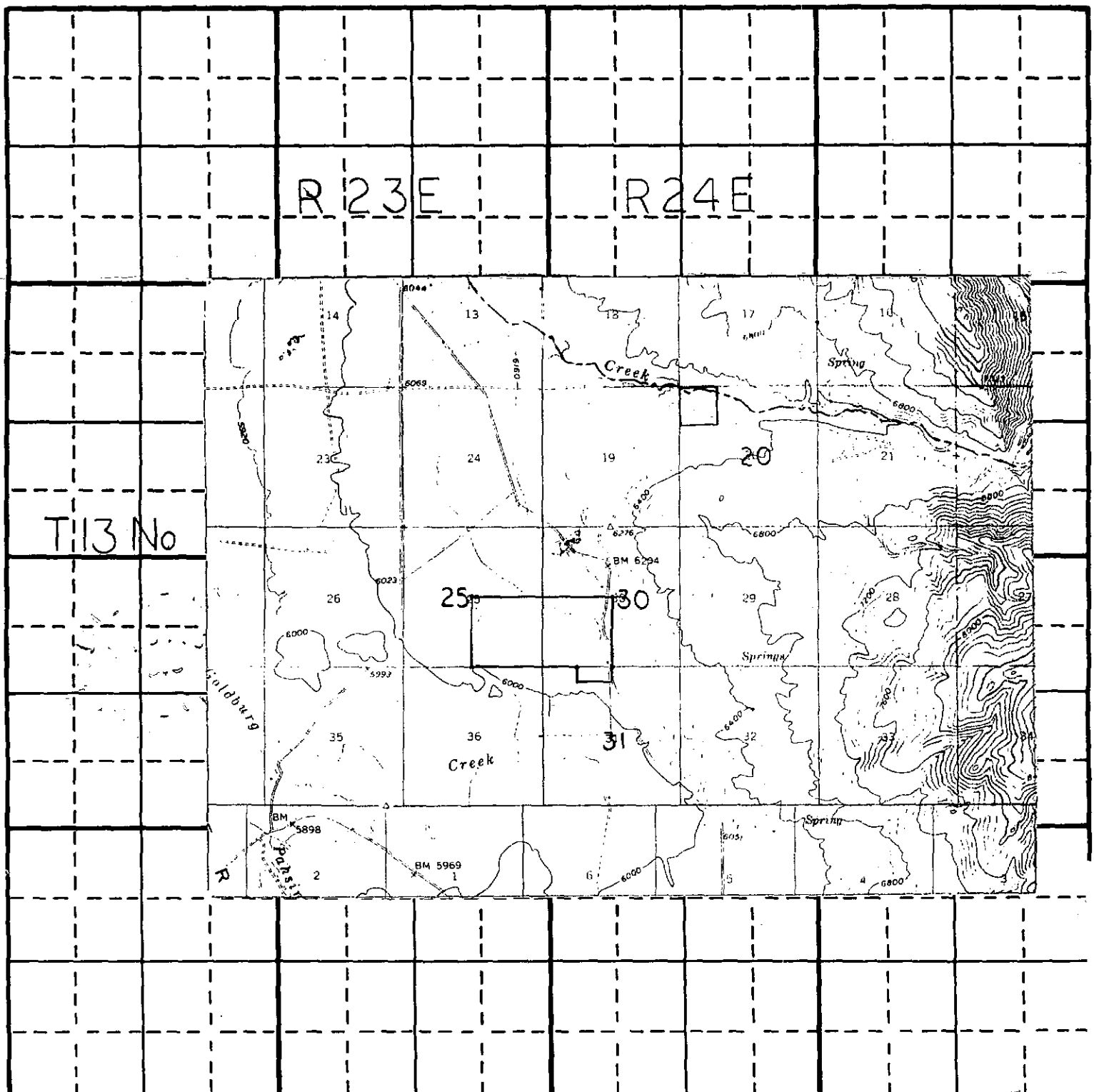
1. General Information
- a. Amount of water to be diverted 9.00 c.f.s. &/or _____ acre feet
- b. Description of diverting works Open ditch, headbox, weir
- c. Describe the reasons for the proposed changes Changing my systems from flood to gravity system with sprinklers.
2. Change in point of diversion
- Point of diversion NW ¼ NW ¼, Section 20 Township 13N
Range 24E, B.M., Custer County
Additional points _____
3. Change in place of use
- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
Land in the N½NE¼ Sec. 25 is not being irrigated.

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	
13N	23E	25													40	40	40	40	160
13N	24E	30								40	39.45	39.35	40						158.8
		31					18												18

Total number of acres to be irrigated 336.8

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.

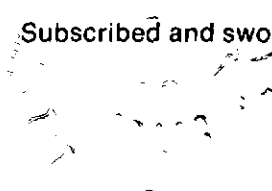


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D. REMARKS

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 4th day of September, 19 84

Allen Wray
(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 _____	Date _____	Protest filed by _____
Prelim. check by _____	Fee _____	_____
Receipted by _____	Date _____	_____
Published in _____	Copies of protest forwarded by _____	
Pub. dates _____	Hearing held by _____	Date _____
Watermaster recommendation requested on _____	Recommended for	approval denial
_____ rec'd. _____	by _____	

Transfer No. _____

Application No. 73-0172

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED **APPLICATION FOR TRANSFER OF WATER RIGHT** AMENDED

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

VOID

Name of applicant E. B. Cunningham Phone _____

Post office address May, Idaho

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree to Henry Davis & Thomas Davis (Name)
in case of Lorenzo Falls, et al vs Uriah Wells, et al (amended)
dated 12-28-1910 in 6th Judicial county of Custer
(Name of court)

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

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

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

Purchase

3. Source of water Big Creek tributary to Pahsimeroi River

4. Date of priority 7-08-1885

5. Water is used for the following purposes:

amount 9.00 for Irrigation purposes from Apr. 1 to Nov. 1

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

(month/day - both dates inclusive)

6. Total amount of water under right: a. 9.00 cubic feet per second

b. _____ &/or
acre feet per annum

7. Location of original point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18

Township 13N Range 24E, B.M., in Custer 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 $\frac{1}{4}$	
13N	23E	25	X	X													X	X	160
13N	24E	30									X	L.3 X	L.4 X	X					158.8
		31					18												18

Total number of acres to be irrigated 326.8

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B. DESCRIPTION OF PORTION OF RIGHT FOR WHICH THE CHANGE IS REQUESTED (If the entire right is requested changed, omit part B)

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ 1/4 _____ 1/4, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

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

1. Change in point of diversion
- a. Amount of water to be diverted 9.00 c.f.s. &/or _____ acre feet
NW (amended 4-16-76)
- b. Point(s) of diversion NE 1/4 NW 1/4, Section 20 Township 13N
Range 24E, B.M., Custer County
Additional points _____
- c. Description of diverting works Open ditch, headbox, weir
- d. Describe the reasons for applying for a change in the point(s) of diversion _____
Changing my system from flood to gravity system with sprinklers

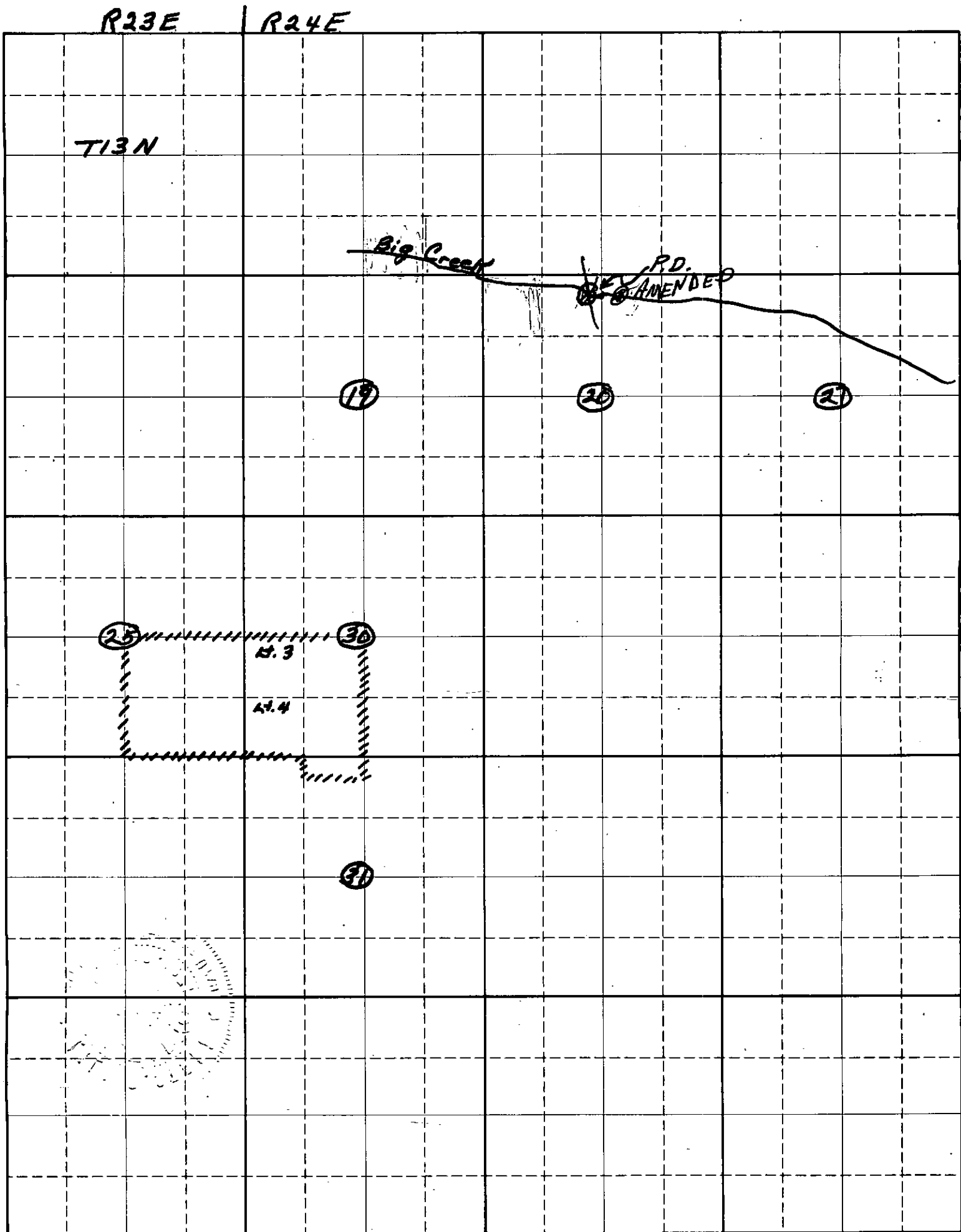
2. Change in place of use

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

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13N	23E	25													40	40	40	40	160
13N	24E	30					40	39.45	39.	40									158.8
								(L. 3)	35										
									(L. 4)										
		31					18												18

Total number of acres to be irrigated 336.8

- b. 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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3. Remarks _____

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. B. Cunningham
(Signature of applicant)

Subscribed and sworn to before me this 7th day of November, 1975

Lea B. Stoll
(Notary public)

My commission expires 11-18-78

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 _____

1. Approval of said application is subject to the following limitations and conditions:

2. Denial of said application is for the following reasons: _____

Witness my hand this _____ day of _____, 19 _____

FOR DEPARTMENT USE ONLY

Received by CW Amended 4-16-76
Date 4-01-76
Prelim. check by LH \$10.00 #15762
Fee 30.00
Receipted by CW Date 4-01-76
#15724
Published in Charles Messenger
Pub. dates April 22 & 29, 1976
April 8 & 15, 1976
Watermaster recommendation requested on 4-06-76
W.D. 73 rec'd. 4-12-76
Charles Keel

Protest filed by _____

Copies of protest forwarded by _____
Hearing held by _____ Date _____
Recommended for _____ approval _____ denial
by _____

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET SARGENT
Publisher of the Challis Messenger,
a weekly newspaper, published at
Challis, Idaho, do solemnly swear
that the notice hereto attached and
made a part hereof, was published
in the regular and entire issue of
the Challis Messenger for 2
consecutive weeks, commencing with
the issue dated APRIL 22,
1976 and ending with the issue
dated APRIL 29, 1976.

Subscribed and sworn to before
me this 30 day of April,
1976.

Rebecca Rustedt
Notary Public, residing at Challis,
Idaho. My commission expires on
10-24-77

REGISTERED

MAY 3 1976

Department of Water Resources
Eastern District Office

**NOTICE OF PROPOSED
AMENDING TRANSFER
NO. 73-0172**

Notice is hereby given that
Transfer No. 73-0172 in the name of E.
B. Cunningham was filed for the
diversion of 9.00 c.f.s. of water from
Big Creek tributary to Pahsimeroi
River with the point of diversion
within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T.
13N, R. 24E, B.M., Custer County; to
be used from Apr. 1 to Nov. 1 for
irrigation purposes.

The right holder now proposes to
amend Transfer No. 73-0172
changing the point of diversion to the
NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E,
B.M., Custer County.

Any protest to the proposed
amending Transfer No. 73-0172 must
be filed with the Idaho Department of
Water Resources, 1515 Lincoln Road,
Idaho Falls, Idaho, on or before May
10, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis
Messenger, Challis, Idaho, on April
22 and April 29, 1976.

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS.....
Publisher of the Challis Messenger,
a weekly newspaper, published at
Challis, Idaho, do solemnly swear
that the notice hereto attached and
made a part hereof, was published
in the regular and entire issue of
the Challis Messenger for 2.....
consecutive weeks, commencing with
the issue dated APR 8.....,
19 76 and ending with the issue
dated APR 15....., 19 76.

Margaret Parks.....
Subscribed and sworn to before
me this 16 day of April.....,
19 76;
Rebecca Brustat.....
Notary Public, residing at Challis,
Idaho. My commission expires on
10-24-77.....

RECEIVED

APR 19 1976

Department of Water Resources
Eastern District Office

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 73-8172**

Notice is hereby given that E. B. Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Big Creek tributary to Pahsimeroi River. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et al -vs- Uriah Wells, et al (amended), dated Dec. 23, 1910 in 6th Judicial Court, County of Custer and is recorded as follows.

AMOUNT: 9:00 c.f.s.

PRIORITY: July 8, 1885

DECREE POINT OF DIVERSION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, T. 13N, R. 24E, B.M., Custer County.

The water is used to irrigate lands within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E; SW $\frac{1}{4}$, Sec. 30 NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; and used to irrigate 336.8 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before April 26, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis Messenger, Challis, Idaho on April 8 and April 15, 1976.

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated APR 11 1983 and ending with the issue dated APR 18 1983

Margaret Parks
Subscribed and sworn to before this 19 day of April 1985

Ethel M. Peck
Notary Public, residing at Challis, Idaho. My commission expires on Life

ER -

NOTICE OF PROPOSED CHANGE OF WATER RIGHT Associated with 188728

Notice is hereby given that Wayne Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the above referenced transfer. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lonsome Falls, et. al. vs. Uriah Wells, et. al. (Amended) dated in 12-28-1910 in 6th Judicial Court, county of Custer and is recorded as follows:

AMOUNT: 3.00 cfs

PRIORITY: July 8, 1885

SOURCE: Big Creek tributary to Pahsimeroi River

DECREED POINT OF DIVERSION: Not specified.

The water is used to irrigate lands within the N1/4NW1/4, S1/4SE1/4, Sec. 25, T. 13N, R. 23E, NE1/4SW1/4, NW1/4SW1/4 (Lot 3), SW1/4SW1/4 (Lot 4), SE1/4SW1/4, Sec. 30, NE1/4NW1/4, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW1/4NW1/4, Sec. 20, T. 13N, R. 24E, B.M. Custer County, to be used for the irrigation of 324 acres within the SE1/4, Sec. 25, T. 13N, R. 23E, NE1/4SW1/4, NW1/4SW1/4 (Lot 3), SW1/4SW1/4 (Lot 4), SE1/4SW1/4, Sec. 30, NE1/4NW1/4, NW1/4NW1/4 (Lot 1), Sec. 31, T. 13N, R. 24E, B.M.

Any protest against the approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Boise, ID 83726, on or before April 18, 1985.

WETH DURN
Director

RECEIVED

Published April 1 & 18, 1985.

APR 22 1985

Department

EE

MICROFILMED

73-K

1910.

This cause came on regularly for trial before Hon. C. F. Hansbrough, sitting as special Judge, who by consent of all the parties to this action, and by order of the Court was appointed special Judge to try the same, and the same coming on regularly for trial before the said special Judge sitting without a jury, on the 18th day of June, 1902, at May, Idaho, Clark & Budge and John W. Jones, Esq., appearing as counsel for the plaintiffs, and W. H. Holden, F. J. Cowen, W. J. Lamm, George E. Keyes, L. H. Glennon, and each of them appearing for cert in defendants;

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The same to be diverted on the northeast quarter of the northeast quarter of Section 11, Township 10 North, Range 23 East Boise Meridian.

73 0171 ✓ Lynne D. Finch from Big Creek 30 inches or $1 \frac{6}{10}$ cubic feet per second of time from FEBRUARY 20, 1905, appurtenant to the southeast quarter of the southwest quarter, and the southwest quarter of the southeast quarter of Section 34, Township 14 North, Range 23 East Boise Meridian, in the State of Idaho.

73 0172 ✓ Henry Davis and Thomas Davis, partners, from Big Creek 333 inches, or $6 \frac{8}{10}$ cubic feet from JULY 8, 1885, appurtenant to Lot 3, and the northeast quarter of the southwest quarter of Section 30, Township 13 North, Range 24 East Boise Meridian; and the north half of the northeast quarter of Section 25, Township 13 North, Range 23 East Boise Meridian; and the southeast quarter of the southwest quarter, and lot 4 of Section 30, Township 13 North, Range 24 East, and the south half of the southeast quarter of Section 25, Township 13 North, Range 23 East, and 18 acres from the northeast quarter of the northwest quarter of Section 31, Township 13, Range 24 East Boise Meridian, in the State of Idaho.

73 0173 ✓ Charles Matley from Rock Springs, 100 inches or 2 cubic feet per second of time or the entire flow thereof. Appurtenant to the southeast quarter of northeast quarter of Section 24 Township 12 North, Range 22 East Boise Meridian; and southwest quarter of northwest quarter of Section 19 Township 12 North Range 23 East of Boise Meridian.

73 0174 ✓ Edith Matley from Pahsimeroi River 240 inches or $4 \frac{8}{10}$ cubic feet per second of time from AUGUST 7, 1905, appurtenant to the south half of the southwest quarter of Section 23; and the northeast quarter of the northeast quarter of Section 32; and the north half of the northwest quarter, and the southwest quarter of the northwest quarter of Section 33, all in Township 13 North, Range 23 East Boise Meridian, in the State of Idaho.

WATER RIGHT NUMBER 73-0172

OWNER LAST NAME - DAVIS
OWNER LAST NAME - DAVIS
OWNER LAST NAME - CUNNINGHAM ✓FIRST NAME - HENRY
FIRST NAME - THOMAS
FIRST NAME - WAYNEORIG OWNER - D
ORIG OWNER - D
ORIG OWNER -

ADDRESS LINE 1 -

ADDRESS LINE 2 -

ADDRESS LINE 3 -

CITY - MAY

STATE - ID ZIP CODE - 83253

SOURCE - BIG CREEK

TRIBUTARY OF - PAHSIMERDI RIVER

STAGE - DECREE

STATUS -

PRIORITY - 07-03-1893 COUNTY - CUSTER

TOTAL DIV. RATE - 9.0000 -CFS

TOTAL DIV. VOLUME -

.00 AFA

TRFR/AMEND - T WATER DIST. - 73 DLE/CAREY ACT -

RIGHT BASIS -

DIVERSION POINT - NWNW 20 13N 24E LOT

REDIV -

0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0

FROM - 04-01 TO - 11-01 USE - IRRIGATION

USE DIV. RATE -

9.0000 CFS

USE DIV. VOLUME -

.00 AFA

USE - IRRIGATION

PLACE OF USE - TWN 13N RNG 24E SEC 30

TRACT NESW LOT

AC 40 TRACT NWSW LOT 03 AC 40

USE - IRRIGATION

PLACE OF USE - TWN 13N RNG 23E SEC 25

TRACT SWSW LOT 04

AC 40 TRACT SESW LOT AC 40

USE - IRRIGATION

PLACE OF USE - TWN 13N RNG 24E SEC 31

TRACT NESE LOT

AC 40 TRACT NWSE LOT AC 40

DECREE NAME - LORENZO FALLS VS. URIAH WELLS

DATE - 04-01-1910

TOTAL ACRES 339

REMARKS - TRANS. 1966. AC. IRP. = 338. ✓

NON IRRIG USE -

OTHER RIGHTS FOR SAME USE -

PROOF DUE -

PERMIT/DENIED -

PROTESTED -

HEARING -

OLD NO. -

PROOF MADE -

FLD EXAM -

COND. OF APPROVAL - R04 01E

DIVERSION MEANS -

August 15, 1985

RE: Transfer of Water Right No. 73-0172

Wayne Cunningham
May,
Idaho 83253

Dear Mr. Cunningham:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 1966). Be sure to note the conditions of approval as listed on the final page.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: Jim J.

1. Right number 73-0172 Applicant Wayne Cunningham
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:

- OK { 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.
- N/A ☐ 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 None
- i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
- j. ☐ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 73 Pahsimeroi

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 5-2-85 Received on 5-6-85
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* OIE, 05(73 PAHSIMEROI RIVER)

MICROFILMED

4. By Jim Date 8-7-85 USE ABOVE CONDITIONS.

* All uses within Watermaster Districts require special conditions.

APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 73-0172 Amended

RECEIVED
MAY
Department of Water Resources
Easter Office

WATER DISTRICT 73

WATERMASTER Jim Martiny

DATE: May 1, 1985

COMMENTS: _____

☒ I do endorse approval of this change.

☐ I do not endorse approval of this change.

I recommend the following conditions of approval:

Jim Martiny
Watermaster

MICROFILMED

May 2, 1985

RE: Amended Application for Transfer No. 73-0172

Mr. Jordan Smith
Attorney at Law
Box 1517
Salmon, ID 83467

Dear Mr. Smith:

In compliance with your request of April 25, 1985, enclosed is a copy of the file on Mr. Cunningham's application to transfer water right No. 73-0172.

As you know the period of protest for the recent advertisement of the amended application ended April 29th. To my knowledge there were no protests received within the statutory period.

Comments from the watermaster are still needed before Mr. Cunningham's application can be forwarded to Boise for final action. However, we expect to get the comments within the next couple of days.

At your convenience, please remit \$6.00 to cover the cost for the copies.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosures

MICROFILMED

April 11, 1985

RE: Application for Amended Transfer No. 73-0172 CUNNINGHAM
73-0160 WHITTIER

Jim Martiny, Watermaster
Water District 73
May, ID 83253

Dear Mr. Martiny:

Please find enclosed a copy of the above referenced application(s) and water recommendation form(s). Please review the application(s) and complete the form(s), returning it to this office on or before April 29, 1985.

Thank you for your cooperation in this matter.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:CW

Enclosure (2)

4-29-85

MICROFILMED

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Amended 1699/73-0172

Notice is hereby given that Wayne Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the above referenced transfer. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et. al. vs. Uriah Wells, et. al. (Amended) dated in 12-28-1910 in 6th Judicial Court, county of Custer and is recorded as follows:

AMOUNT: 9.00 cfs PRIORITY: July 8, 1885
SOURCE: Big Creek tributary to Pahsimeroi River
DECREEED POINT OF DIVERSION: Not specified.

The water is used to irrigate lands within the N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M. ^{Custer County,} to be used for the irrigation of 338 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 1), Sec. 31, T. 13N, R. 24E, B.M.

Any protest against the approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402 on or before April 29, 1985.

A. KENNETH DUNN

Director

MICROFILMED

Published in the Custer Publishing Co. on 4/11 & 4/18/85. ✓

INTER-DEPARTMENT MEMO — 1

FROM E. CARLSEN.

DATE 4-1-1985

TO File TRANS 73-0172

SUBJECT AS EXPECTED MR. CUNNINGHAM HAS NOT SUBMITTED THE AMENDMENT FEE WE REQUESTED ON FEB 21, 1985. AFTER REVIEWING THE CIRCUMSTANCES REQUIRING THE AMENDMENT, IT WAS DECIDED THAT FURTHER DELAY WOULD NOT SERVE A BENEFICIAL PURPOSE AND EVERYBODY INVOLVED WOULD BENEFIT BY PROCEEDING WITH THE NECESSARY PROCESSING.

MICROFILMED

Ernest Carlson.

SIGNATURE

February 12, 1985

RE: Amended Application for Transfer No. 73-0172

Mr. Wayne Cunningham
May,
Idaho 83253

Dear Mr. Cunningham:

This office has received your letter of September 18, 1984 requesting the Department to not readvertise the above application because of the possibility of protest. You are correct in stating the application had already been advertised back in May, 1976. Unfortunately, despite your efforts, the efforts of Ted Springer, Attorney at Law, and Loy Johnson from this Department, those early applications incorrectly described the new place of use and, consequently, the publications were also in error. Under the circumstances, approval of the initial amended application would have made one-half of your water appurtenant to the wrong lands with the only remedy being to file another new application for transfer. The processing of this application would be the same as an amended application. It would have to be advertised for two consecutive weeks and subject to protest for ten (10) days following the last day of publication. However, the filing fee on the new application would be \$50.00 rather than the \$20.00 statutory fee for republication of an amendment.

Since the publication, by law, must accurately describe the proposed change it has been decided that the Department can not waive republication of the amendment. Consequently, you will need to submit the \$20.00 fee for republication. A request for payment of this fee was delayed until a decision was made regarding your petition.

MICROFILMED

Mr. Wayne Cunningham
February 12, 1985
Page 2

Everybody involved with the three transfer applications pertaining to the gravity flow pipeline on Big Creek are anxious to see this whole matter finalized. Your prompt action in submitting the above fee will allow the Department to initiate the necessary procedures for reaching that goal.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

MICROFILMED

RECEIVED

SEP 13 1984

18 Sept 84

HC62 Box 2150

Department of Water Resources
Eastern District Office

May, Idaho

83253

ERNIE M Carlson
Department of Water Resources
Eastern Region
Idaho Falls, Idaho 83401

Dear Mr. Carlson;

I am writing in regards to the Water Resources requirement that I readvertise a change of diversion point. This initially was advertised some seven years ago without protest. I was unaware of an error in the written land description and the corresponding map during this time period.

At the time of the initial filing, two of my neighbors and I installed a common gravity sprinkler delivery system. I personally installed sprinkler equipment, all at considerable cost.

I feel to readvertise is unjust to my operation and investment. The possibility of a protest would be financially devastating. Not only the investment in the sprinkler system would be lost but the value of my ranch would plummet with the loss of the delivery system.

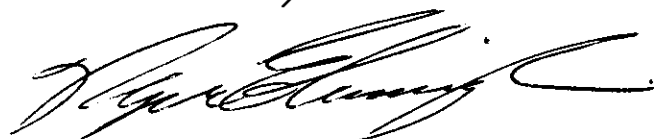
MICROFILMED

Further the old Canal has been obliterated and would require further expense and legal involvement to reestablish the System.

My concern with a protest is the recent filing with your department for a hydro power project on Big Creek. There is growing concern among the Big Creek irrigators over this project. If a confrontation surfaced during the protest period I could easily suffer the brunt of such an encounter. Further I feel the readvertisement would be confusing to the irrigators of Big Creek since they believe this change has already been made.

For the above reasons I request an intradepartmental correction and not a readvertisement with the concomitant vulnerability.

Respectfully,



MICROFILMED

September 12, 1984

Wayne Cunningham
May, ID 83253

RE: Application for Transfer No. 73-0172

Dear Mr. Cunningham:

Enclosed for your consideration and review is a new amended application for transfer of your water right on Big Creek. This application has been prepared to provide a more accurate description of the 18 acres decreed to Section 31.

Though the decree describes this 18 acres as being entirely within the NE1/4 NW1/4, Section 31, the description of this land in your warranty deed reveals that a portion of it is also in Lot 1 of the same section. Based on the description provided in your warranty deed it appears that 9.5 acres is in the NE1/4 NW1/4 and 8.5 acres is in Lot 1. This breakdown of the 18 acres is reflected in Section C of this new amended application.

When you have confirmed my finding regarding the 18 acres sign the application in the presence of a notary and return it to this office along with your request that final action be taken without re-advertising the amended application. To supplement the application and help simplify our review of the transfer we would also like a copy of an aerial photo showing the original place of use for the decree and the lands where the water is now used.

If you have any questions or feel the application is in error please contact me.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EMC/cz

Enc.

MICROFILMED

June 14, 1984

RE: Application for Transfer No. 73-0172

E. B. Cunningham

May,
Idaho 83253

Dear Mr. Cunningham:

In November of 1975, you filed an application with the Department of Water Resources to transfer the above captioned water right changing the point of diversion and the place of use. Since then this application has been held in our regional office pending verification that you are the holder of the water right. A recent review of the application also indicates that an amendment is necessary to correctly identify the new diversion site and the land you intend to sprinkle irrigate. The enclosed amended application form has been prepared to reflect these changes and should be carefully reviewed before signing in the presence of a notary. Should you identify an error in the application please contact me so we can discuss the change.

When returning the notarized application to this office it should be accompanied by either a warranty deed showing you own the N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, or an affidavit from the individual owning that property stating they do not object to your transferring this water right from those lands. For your convenience, we have also enclosed a form that can be used for that purpose. In addition to this information, included with the application should also be a check in the amount of \$20.00 to cover the statutory fee for amending the application.

Upon receipt of the application, the filing fee, and the warranty deed or the affidavit we will initiate the processing and readvertisement of the amended application.

MICROFILMED

E.B. Cunningham
June 14, 1984
Page 2

If you have any questions concerning the amended application or supplemental information, please feel free to contact me. Your cooperation and prompt attention to this matter is appreciated.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosures

MICROFILMED

TED C. SPRINGER
ATTORNEY AT LAW
P. O. Box 409
CHALLIS, IDAHO 83226
208-879-2312

RECEIVED

MAY 24 1976

Department of Water Resources
Eastern District Office

May 21, 1976

Ronald D. Carlson, Supervisor
Eastern Region
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

re: Application for Transfer
No. 73-0172 (E.B. Cunningham), No. 73-0160 (Leon Ziegler)

Dear Mr. Carlson:

This is to confirm our telephone conversation of this week in which I discussed satisfaction of your requirements as set forth in your letter to the above applicants on May 10, 1976.

As you might know, Mr. Ziegler, Mr. Cunningham and Mr. James Whittier are incorporators of Bald Mountain Irrigation Company, Inc., which will be the distributor of waters belonging to the members of the corporation. My surface research reveals that the parcels of land for which your department needs approval, are owned entirely by the three incorporators with one exception. I find the north half of the Northwest quarter of section 30, T. 13 N., R. 24 E. to be vested in the United States of America.

There will be no problem obtaining approval from the incorporators, and I will discuss with the incorporators the status of the property vested in the USA.

I will keep you advised.

Very truly yours,

Ted C. Springer
TED C. SPRINGER

TCS/lh

CC: Leon Ziegler

Wayne Cunningham

MICROFILMED

May 10, 1976

RE: Application for Transfer No. 73-0172

Mr. E. B. Cunningham
May,
Idaho 83253

Dear Mr. Cunningham:

Your application for transfer No. 73-0172 has been processed and is ready for final action. However, since your application for transfer represents a change in the place of use, it will be necessary for you to submit evidence of ownership for the N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, and the NW $\frac{1}{4}$, Sec. 30, T. 13N, R. 24E.

We will take no further action on this matter until we have received evidence of ownership or approval from the present land owners authorizing this transfer.

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

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:cw

MICROFILMED

April 20, 1976

RE: Amended Application for Transfer No. 73-0172

Mr. Wayne Cunningham
May,
Idaho 83253

Dear Mr. Cunningham:

Attached herewith is departmental receipt No. 15762 in the amount of \$10.00 for the above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Attachment

MICROFILMED

April 16, 1976

RE: Application to Amend Transfer No. 73-0160 ZIEGLER
73-0160A WHITTIER
73-0172 CUNNINGHAM

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 5-16-76 by dw

RDC:CW

Enc: Legal Notice (3)

MICROFILMED

**NOTICE OF PROPOSED
AMENDING OF TRANSFER
NO. 73-0172**

Notice is hereby given that Transfer No. 73-0172 in the name of E. B. Cunningham was filed for the diversion of 9.00 c.f.s. of water from Big Creek tributary to Pahsimeroi River with the point of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; to be used from Apr. 1 to Nov. 1 for irrigation purposes.

The right holder now proposes to amend Transfer No. 73-0172 changing the point of diversion to the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County.

Any protest to the proposed amending Transfer No. 73-0172 must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, on or before May 10, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis Messenger, Challis, Idaho, on April 22 and April 29, 1976

NOTICE OF PROPOSED AMENDING OF TRANSFER NO. 73-0172

Notice is hereby given that Transfer No. 73-0172 in the name of E. B. Cunningham was filed for the diversion of 9.00 c.f.s. of water from Big Creek tributary to Pahsimeroi River with the point of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; to be used from Apr. 1 to Nov. 1 for irrigation purposes.

The right holder now proposes to amend Transfer No. 73-0172 changing the point of diversion to the NW¹/₄NW¹/₄, Sec. 20, T. 13N, R. 24E, B.M., Custer County.

Any protest to the proposed amending of Transfer No. 73-0172 must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, on or before May 10, 1976.

R. KEITH HIGGINSON

Director

Published in the Challis Messenger, Challis, Idaho, on April 22 and April 29, 1976.

MICROFILMED

RECEIVED

APR 16 1976

Department of Water Resources
Eastern District Office

AFFIDAVIT

I, Wayne E. Cunningham, hereby amend transfer
number 73-0172 as follows:

Change point of diversion from; NE1/4 of NW1/4, Sec.
20, T 13N, R 42E B M, Custer County, Idaho to; NW1/4 of
NW1/4, Sec. 20, T 13N, R 42 E B M, Custer County, Idaho.

Dated this 15th day of April, 1976.



Personally appeared Wayne E. Cunningham before me this
15th day of April, 1976.



Notary Public
Challis, Idaho
My Comm. expires 7/1/79

MICROFILMED

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 73-0172

APR 12 1976

L. Department of Water Resources
Eastern District Office

RECOMMENDATION OF WATERMASTER

I, Charles W Kest, watermaster of Gahe River, River
of Water District No. 73, County of Custer, State of Idaho,
whose address is May Idaho Box No 132
have read the attached copy of the application for transfer of water right for _____
E. B. Cunningham, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: None

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: _____

Dated at ~~7-8-76~~, Idaho, this 8 day of April 1976.
May Ida

Charles W Kest
(signature)

Please use reverse side if needed.

MICROFILMED

April 6, 1976

RE: Application for Transfer No. 73-0172 CUNNINGHAM
73-0160 ZIEGLER
73-0160A WHITTIER

Mr. Charles Kesl, Watermaster
Water District No. 73
May, Idaho 83253

Dear Mr. Kesl:

Please find enclosed copies of the above referenced applications and watermaster recommendation forms. Please review the applications and complete the forms, returning them to this office on or before April 26, 1976.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CM

Enclosures

MICROFILMED

April 6, 1976

RE: Application for Transfer No. 73-0172

Mr. Wayne Cunningham
May,
Idaho 83253

Dear Mr. Cunningham:

Attached herewith is departmental receipt No. 15724 in the amount of \$30.00 for the above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Attachment

MICROFILMED

April 2, 1976

RE: Applications for Transfer Nos. 73-0172 CUNNINGHAM
73-0160 ZIEGLER
73-0160A WHITTIER

Challis Messenger
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 4-19-76 by CW

RDC:ME

Legal Notices (3)

MICROFILMED

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 73-0172**

Notice is hereby given that E. B. Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Big Creek tributary to Pahsimeroi River. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et al -vs- Uriah Wells, et al (amended), dated Dec. 28, 1910 in 6th Judicial Court, County of Custer and is recorded as follows.

AMOUNT: 9:00 c.f.s.

PRIORITY: July 8, 1885

DECREED POINT OF DIVERSION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, T. 13N, R. 24E, B.M., Custer County.

The water is used to irrigate lands within the N $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E; SW $\frac{1}{4}$, Sec. 30 NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; and used to irrigate 336.8 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before April 26, 1976.

R. KEITH HIGGINSON
Director

Published in the Challis Messenger, Challis, Idaho on April 8 and April 15, 1976.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 73-0172

Notice is hereby given that E. B. Cunningham, May, Idaho, has applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Big Creek tributary to Pahsimeroi River. The right sought to be changed is evidenced by decree to Henry Davis and Thomas Davis in case of Lorenzo Falls, et al -vs- Uriah Wells, et al (amended), dated Dec. 28, 1910 in 6th Judicial Court, County of Custer and is recorded as follows:

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PRIORITY: July 8, 1885

DECREED POINT OF DIVERSION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, T. 13N, R. 24E, B.M., Custer County.

The water is used to irrigate lands within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E; SW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20, T. 13N, R. 24E, B.M., Custer County; and used to irrigate 336.8 acres within the SE $\frac{1}{4}$, Sec. 25, T. 13N, R. 23E, NW $\frac{1}{4}$, Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 13N, R. 24E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before April 26, 1976.

R. KEITH HIGGINSON

Director

Published in the Challis Messenger, Challis, Idaho, on April 8 and April 15, 1976.

MICROFILMED

20-10-11
A-10-11
y-10-11

DEPARTMENT OF WATER RESOURCES

TRANSFER ANALYSIS SHEET

1. Source B. g. Ch. Name E. B. Cunningham
2. Right Being Transferred Right No. 73-0712
 Transfer No. _____
 - a. ☒ Decree
 _____ License
 _____ Use
 - b. ☒ Priority
 - c. ☒ Location - Original P. D. Not Decreed.
 - d. ☒ " - Original P. U.
 - e. ☒ " - New P.D.
 - f. ☒ " - New P.U. no change
 - g. ☒ Amount
☒ All
 _____ Part
3. _____ Proof of Ownership of Right
 Comment None included
4. ☒ Expansion of Right NO
 Comment Change in P.D. only
5. ☒ Map
6. ☒ Signature
7. ☒ Fee
8. Watermaster's Comments D.D. 23
9. Comments _____
10. Initial Review by LH Date 4-1-76
11. Recommended Action
☒ Approve
 _____ Deny
☒ Conditions MEASURING DEU
- By RDC Date 5/10/76

MICROFILMED

*Transferred Copy
4-20-76
4-22-76
4-23-76*