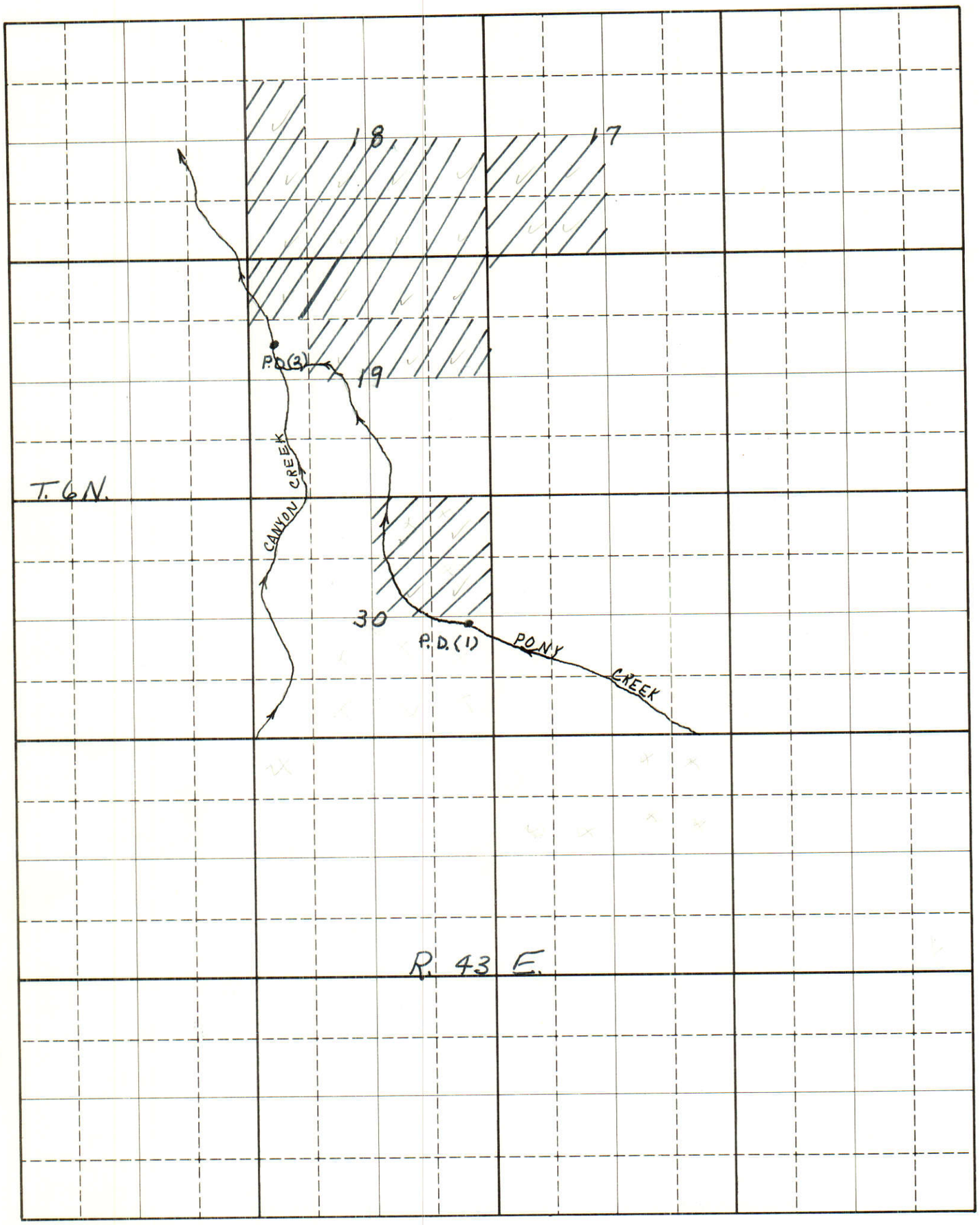


SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MICROFILMED

RECEIVED
OCT 15 1974
Department of Water Resources
Eastern District Office

The REXBURG STANDARD and
The REXBURG JOURNAL
REXBURG, IDAHO

Affidavit of Publication

STATE OF IDAHO
County of Madison } ss.

I, John A. Porter,
being first duly sworn, depose and say, that I am the printer of THE REXBURG Journal, a newspaper printed and published weekly at Rexburg, Madison County, Idaho; and I do solemnly swear that the

proposed change of water right

a copy of which notice appears attached hereto, was published in the regular and entire issue of said newspaper, and not in any supplement issue thereof for two consecutive issues, the first publication having been made on October 3, 1974 and the last publication having been made on October 10, 1974.

Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninteruptedly published in said county dur- a period of seventy-eight consecutive weeks prior to the first publication of the said notice.

John A. Porter

Subscribed to and sworn to before me this October 11, 1974.

Roy A. Porter
Notary Public.

(SEAL)

My commission expires 8-5-77

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

MB

NO. 22-0610

Notice is hereby given that O. J. Neeley Ranch, Inc., Rexburg, Idaho, has applied to the Idaho Department of Water Resources for a change in place of use and point of diversion of the waters of Pony Creek. The right sought to be changed is evidenced by decree to O. J. Neeley & Myrtle Neeley in case of O. J. Neeley & Myrtle Neeley -vs- George Browning & Phebe Browning and Morris Slaymaker & Thelma Slaymaker, dated 5/21/1954 in Ninth Judicial District Court, Madison County and is recorded as follows:

AMOUNT: 8.7 cfs; PRIORITY: June 15, 1900

DECREED POINT OF DIVERSION: SE¼SE¼, Sec. 33, T. 6N, R. 43E, B.M. Teton County

The water is used to irrigate 846 acres within the NE¼, S½NW¼, Sec. 32, N½ Sec. 19, NW¼NW¼, Sec. 31, N½NE¼, SE¼NE¼ E½SW¼, SE¼, Sec. 30, T. 6N, R. 43E, B.M.

TO BE CHANGED AS FOLLOWS

ONLY 1.35 cfs will be diverted at the first point of diversion within the NE¼SE¼, Sec. 30; and 7.35 cfs will be diverted at the second or point of diversion within the SW¼NW¼, Sec. 19, T. 6N, R. 43E, B.M., Madison County. The water will be used to irrigate 846 acres within the NE¼, N½NW¼, SE¼NW¼, Sec. 19, NE¼, Sec. 30, SW¼ NW¼, S½, Sec. 18, SW¼, Sec. 17, T. 6N, R. 43E, 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 October 21, 1974.

R. KEITH HIGGINSON
Director

Published in the Rexburg Journal, Rexburg, Idaho, on October 3 and October 10, 1974.

MICROFILMED

22-0620

Identification No. ~~22-0610-B~~

Transfer No. 1710

APPROVED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

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

1. Name of Right Holder O. J. Neeley Ranch, Inc.

   Post office address P.O. Box 425, Rexburg, Idaho 83440

2. Right obtained by:

   a. Decree to O. J. Neeley & Myrtle Neeley (Name) in Case of O. J. Neeley & Myrtle Neeley his wife -vs- Phebe Browning his wife and Morris Slaymaker & Thelma Slaymaker, vs. George Browning & his wife, Dated 5/21/54 in 9th Judicial District (Name of Court)
   Court. County of Madison.

   b. License No._____ issued by the State of Idaho, Department of Reclamation.

3. Source of water Pony Creek (Name of stream or source) tributary to _____

4. Date of Priority June 15, 1900

5. Amount of water a. 8.7 c.f.s. and/or

   b._____ acre feet/annum

6. Water is used for Irrigation from May (Month, Day) to July (Month, Day)

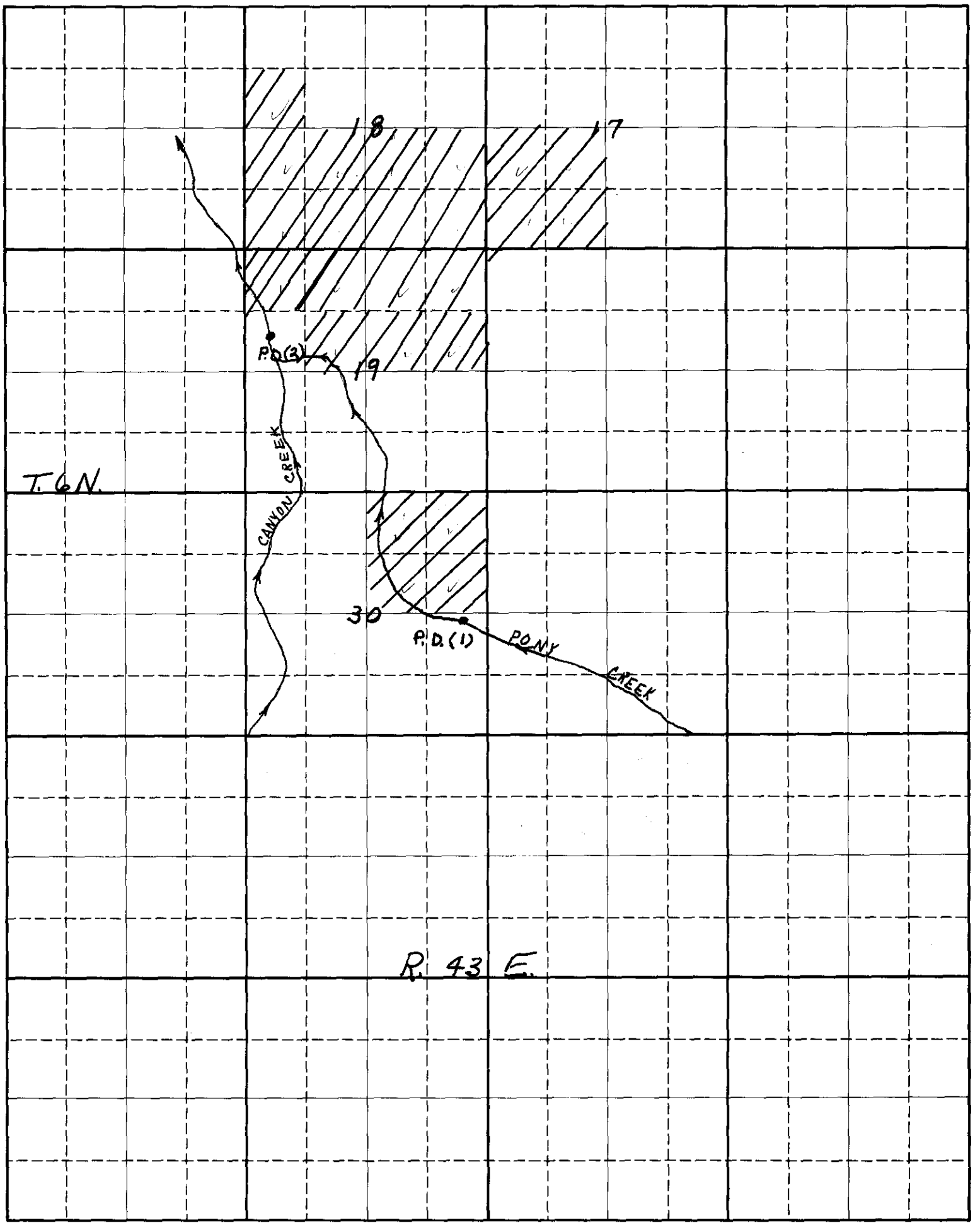
7. Original location of point of diversion is SE ¼ SE ¼ of Section 33,
   Township 6N, Range 43E, B.M., in Teton County;

   Additional points of diversion, if any_____

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6N	43E	32	25	35	40	40			36	40									216
		19	40	40	40	40	40	40	40	40									320
		31						40											40
		30	40	25		25					40			20	35	15	30	40	270

Total number of acres presently irrigated 846



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MICROFILMED

9. If applicant was not the original holder of this right explain how it was acquired: Acquired with purchase of property from Morris Slaymaker & George Briggs Estate

10. CHANGE IN POINT OF DIVERSION Right to be diverted at two points:

a. Quantity to be diverted at new point: (1) 1.35 (2) 7.35 c.f.s. and/or _____ acre feet

b. New point of diversion: NE SW ¼ SE NW ¼, Section 30 19, Township 6N 43E, Range Madison, B.M.

c. Description of method of diversion and conveyance from new points of diversion: (1) 75 Hp pump & water winch (2) 600 Hp motor and pump to underground main to three pivot sprinkler systems, one water winch, & 4 wheel lines.

d. Is water to be conveyed to the lands previously irrigated? Yes X No _____.

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the point of diversion:

To make better & more efficient use of the water

f. Do you intend to make the transfer permanent? Yes

g. Do you intend to abandon completely the old point of diversion? Yes

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6N	43E	19	40	40	40	40	40	28		34									262
		30	40	25	10	25													100
		18							28		40	28	28	40	40	40	40	40	324
		17									40	40	40	40					160

Total number of acres to be irrigated 846

b. Do you intend to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

Lands in N½, Sec. 19 & NE¼, Sec. 30, T. 6N, R. 43E, will still be irrigated.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: None

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Owen J. McClay
(signature of applicant)

Subscribed and sworn to before me this 26th day of September, 19 74

Brent Bruton
(notary public)

My commission expires Aug. 16, 1977.

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0610B, and said application is hereby APPROVED.

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

Pursuant to the Memorandum Decision and Order of February 25, 1975.

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

Witness my hand this 25 day of February, 19 75.

DIRECTOR

FOR DEPARTMENT USE ONLY

Received by MB Date 9-26-74

Prelim. check by JS Date 9-26-74

Fee received by MB Date 9-26-74 Fee $30.00 #13075

Approved for publication by MB 10-15-74

Published in Ledger-Dispatch Dates Oct 3 & 10, 1974

Hearing held

Watermaster Recommendation sent W.D #01 Art Larsen

Protest filed by:	Date
J. Wayne Stewart	10-9-74
Fremont-Madison Irrig. Dist.	10-21-74

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 22-0610B in the name of O. J. NEELEY RANCH, INC.	MEMORANDUM DECISION AND ORDER

On September 26, 1974, O. J. Neeley Ranch, Inc., filed with the Department of Water Resources an application to transfer the waters of Pony Creek to a new point of diversion on Canyon Creek located within the SE¼NW¼, Sec. 19, Twp. 6N, Rge. 43E, B.M. On October 9, 1974, the Department received a protest against approval of said application from J. Wayne Stevens. On October 21, 1974, the Department received an additional protest from Mary Smith, Attorney at Law, on behalf of Fremont-Madison Irrigation District. A hearing on the matter was held on November 22, 1974, in St. Anthony, Idaho.

Owen J. Neeley was present on behalf of the applicant, O. J. Neeley Ranch, Inc., and was represented by Blair Grover, attorney at law. The protestant, Fremont-Madison Irrigation District was represented by R. Willis Walker, Chairman of the Board of Directors, and Mary Smith, Attorney at Law. The protestant, J. Wayne Stevens was present and represented by Ray Rigby, Attorney at Law.

During the pre-hearing conference, Fremont-Madison Irrigation District withdrew their protest, but the protest by J. Wayne Stevens could not be resolved. A hearing was held to resolve the matter and testimony and evidence in behalf of the applicant and protestant was received into the hearing record. The Department, having reviewed all testimonies and evidence offered for each of the parties, and reviewing all pertinent information in the Department's official records, and based upon the Director's understanding of the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

(1) The protestant J. Wayne Stevens, is holder of approved Permit No.'s 22-7069, in the amount of 2.0 cfs; No. 22-7103, in the amount of 8.0 cfs; and Application for Permit No. 22-7114, in the amount of 20.0 cfs; all for the diversion and use of water from Canyon Creek.

(2) Mr. Stevens irrigated 55 acres during 1974 with water pumped from Canyon Creek.

(3) Pony Creek is an intermittent stream which generally ceases to reach

Canyon Creek during the month of June.

(4) Canyon Creek is a continuously flowing stream and becomes intermittent only because of the diversions that are made.

(5) Both Canyon Creek and Pony Creek tend to exhibit diurnal fluctuations in flow.

(6) The proposed point of diversion from Canyon Creek is less than 1/4 of a mile below the confluence of Pony and Canyon Creeks.

(7) The applicant proposes to use water beneficially during the month of May under this transfer.

(8) The applicant has filed with the Department of Water Resources on December 5, 1974, an Application for Permit No. 22-7118 to appropriate 8.0 cfs of water from Canyon Creek at the same point of diversion proposed by this transfer.

Conclusions of Law

(1) The protestant, J. Wayne Stevens, has the right to appropriate the unappropriated waters of Canyon Creek under authority of permits approved by the Department of Water Resources.

(2) The protestant has not completed his project, and therefore, has not used beneficially all of the water requested in his applications to the Department of Water Resources.

(3) The applicant will not interfere with prior water rights during the period of the year that Pony Creek water is flowing into Canyon Creek.

(4) It is possible for water to be beneficially used during the season requested.

Order

IT IS, THEREFORE, ORDERED and Application for Transfer No. 22-0610B is hereby APPROVED subject to the following conditions:

1. That the right being transferred be subject to all prior rights.
2. That the applicant shall install and maintain a measuring device of a type approved by the Department at or near the mouth of Pony Creek. In addition, totalizing measuring devices of a type approved by the Department shall be installed and maintained at both points of diversion listed in the application.
4. This right is subject to the control of the watermaster.

Dated this 25 day of February, 1975.

R. KEITH HIGGINSON
Director

RDC/BDF:jg

RECEIVED
OCT 15 1974
Department of Water Resources
Eastern Region Office

The REXBURG STANDARD and
The REXBURG JOURNAL
REXBURG, IDAHO

Affidavit of Publication

STATE OF IDAHO }
County of Madison } ss.

I, John A. Porter, being first duly sworn, depose and say, that I am the printer of THE REXBURG Journal, a newspaper printed and published weekly at Rexburg, Madison County, Idaho; and I do solemnly swear that the

proposed change of water right

a copy of which notice appears attached hereto, was published in the regular and entire issue of said newspaper, and not in any supplement issue thereof for two consecutive issues, the first publication having been made on October 3, 1974 and the last publication having been made on October 10, 1974.

Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninterruptedly published in said county dur- a period of seventy-eight consecutive weeks prior to the first publication of the said notice.

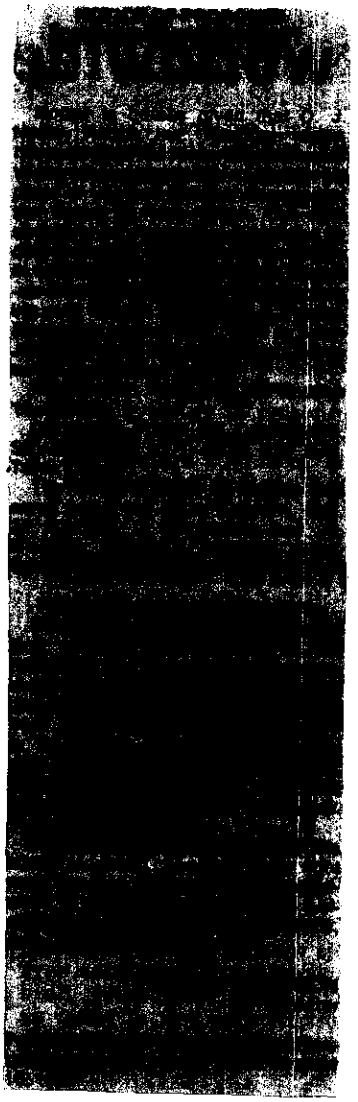
John A. Porter

Subscribed to and sworn to before me this October 11, 1974.

Roy A. Porter
Notary Public.

(SEAL)

My commission expires 8-5-77



MICROFILMED

ROUTING SLIP

TO: _____

FROM: _____

DATE: _____ TIME: _____

PER:	
Our Conversation	
Your Request	
The Attached	

FOR YOUR:		REVIEW AND:	
Information		Take Proper Action	
Approval		Comment	
Signature		Draft A Reply	

ATTACHED TO BE:			
Posted		Returned To Me	
Circulated		Filed	
Distributed		Copied (_____ copies)	

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USE TO AVOID PAYMENT
OF POSTAGE, $300

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- Moisten gummed ends and attach to back of article.

RETURN
TO

PS Form 3811
June 1973

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

22-C6106

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(Additional charges required for these services)

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☐ Deliver ONLY to addressee

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1 **SIGNATURE OR NAME OF ADDRESSEE** *(Must always be filled in)*

Mrs Ollie Mae Lacy

2 **SIGNATURE OF ADDRESSEE'S AGENT, IF ANY**

DATE DELIVERED

NOV 11 1974

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EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

PS Form 3811
June 1973

22-36465

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CERTIFIED NO. 25.24

INSURED NO.

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2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED NOV 8 1975

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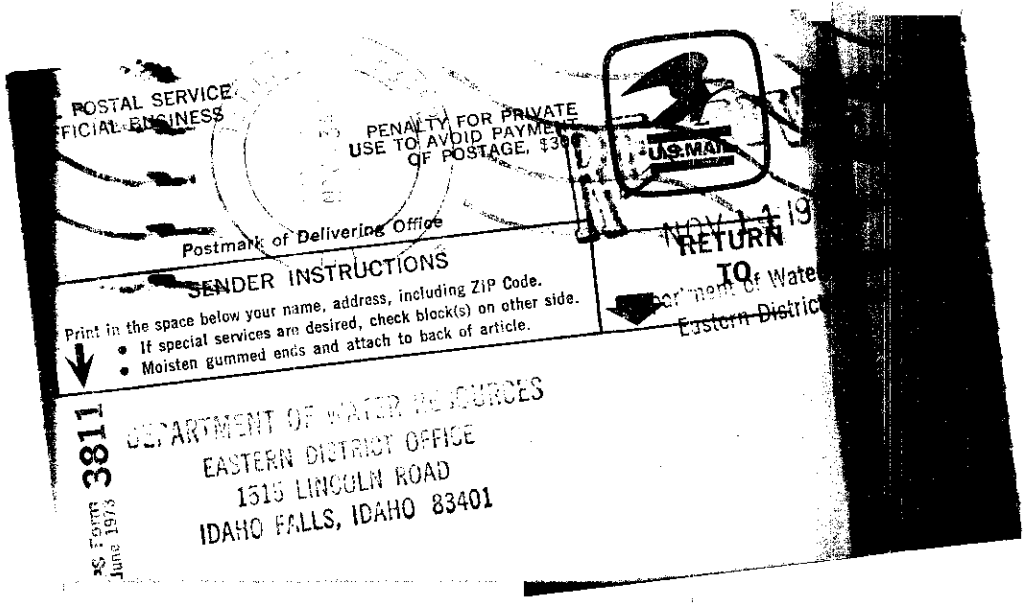
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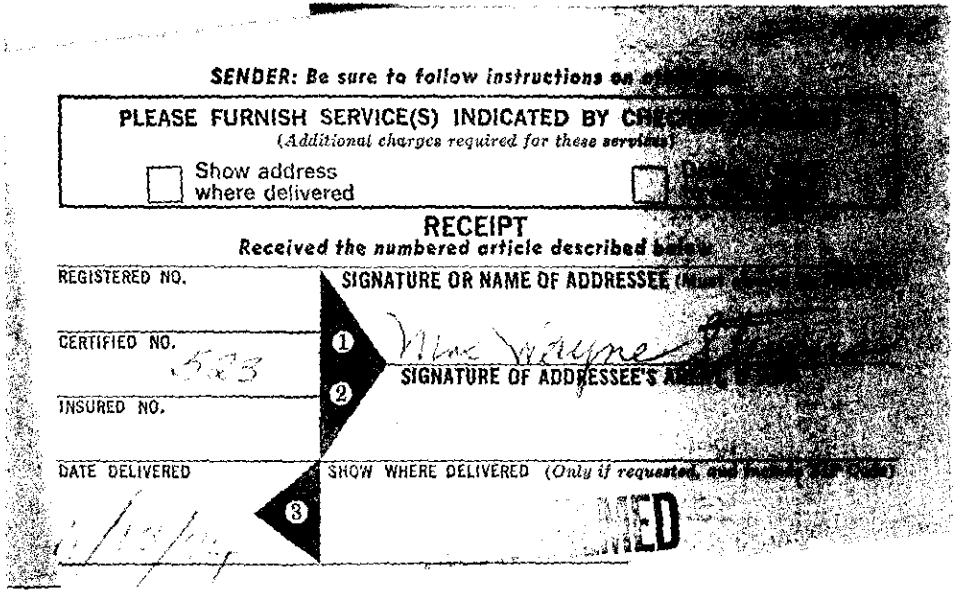
• Moisten gummed ends and attach to back of article.
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401
3811
June 1973



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CERTIFIED NO. 553

INSURED NO.

SIGNATURE OR NAME OF ADDRESSEE

1 Mac Wayne

SIGNATURE OF ADDRESSEE'S

2

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and

3

ED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
1515 Lincoln Road • Idaho Falls, Idaho
83401

RETURNED CERTIFIED RECEIPTS

February 26, 1975

Re: Transfer No. 22-0610B

O. J. Neeley Ranch, Inc.
Box 425
Rexburg, Idaho 83440

Gentlemen:

Enclosed is a copy of your approved Application for Transfer No. 22-0610B. We direct your attention to the conditions of approval as listed on the Memorandum Decision & Order.

Be sure to note that a special condition requiring you to install and maintain a measuring device has been placed upon your transfer. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosure

cc: Art Larsen, Watermaster
Box 1099
Idaho Falls, Idaho 83401

Encl: Copy of Permit and
Memo. Dec. & Order

cc: Protestants and attorneys

Encl: Copy of Memo. Dec. & Order

M E M O R A N D U M

TO: Bob Fleenor

FROM: Ron Carlson

Department of Water Resources

RE: Memorandum Decisions for 22-0610B, 22-7114, 22-7118

DATE: February 13, 1975

Just a word of explanation on the proposed memorandum decisions for 22-0610B, 22-7114, and 22-7118. One of the issues that I felt was never resolved at the hearing on 22-0610B was: Can O. J. Neeley use the water from Pony Creek beneficially? Some of those who testified said Pony Creek would be dry by the second week in June. There is also testimony that the Canyon Creek Canal does not begin to divert water until around June 15. I really wonder how much irrigating Neeley can get done if he must quit when other farmers are starting. This is the reason I included condition #4 of the Order.

As a condition of approval for 22-7118, I have limited the time period that proof can be submitted to the period March 1, 1980 to March 1, 1981. Since Stevens has the earliest priority it would be unfair for Neeley to submit proof and receive a license if there actually is not water available to fill his right.

Finally, I had the decisions prepared for Ken's signature since there is a good chance they may be appealed. It may allow Keith a little more flexibility than he would have had he signed the approval orders. That is my reasoning for what it is worth.

I have been called twice by Blair Grover asking when the decision on Neeley's applications will be out. He says Neeley has to tell the power company which way to go with the power. I told Blair Grover I would do what I could to expedite processing.

Ron

EIVED
2 1974
ment of Water Resources
Eastern District Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 22-0610

RECOMMENDATION OF WATERMASTER

I, Arthur L. Larson, watermaster of Snake River, of Water District No. 01, County of Teton, Fremont, etc., State of Idaho, whose address is P.O. Box 1099, Idaho Falls, Idaho have read the attached copy of the application for transfer of water right for O.J. Neeley Ranch, Inc (name), and to the best of my knowledge believe the 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: Applicant's rights are in Pony Creek only, and his proposed diversion from Canyon Creek must be limited to the flow from Pony Creek into Canyon Creek. Therefore, at no time is he entitled to water other than that contributed by Pony Creek within applicant's 6/15/1900 OR right thereof. Administration will be very difficult.

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

Dated at Idaho Falls, Idaho, this 29th day of November 1974.

Arthur L Larson
(signature)

Please use reverse side if needed.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against Approval of Application for Transfer of Water Right No. 22-0610B in the name of O. J. NEELEY RANCH, INC.	NOTICE OF CONFERENCE AND/OR HEARING

On September 26, 1974, O. J. Neeley Ranch, Inc. filed with the Department of Water Resources an application to transfer the waters of Pony Creek. On October 9, 1974, the Department received a protest against approval of said application from J. Wayne Stevens. On October 21, 1974, the Department received an additional protest from Mary Smith, Attorney at Law, on behalf of Fremont-Madison Irrigation District.

The Department has set the matter of protests for conference and/or hearing for Friday, November 22, 1974, at 3:00 p.m., in the Community Room, Valley Bank, St. Anthony, Idaho. Any hearing will be held in accordance with the Rules and Regulations 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.

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. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

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

Dated this 8th day of November, 1974.

Loren O. Holmes

LOREN O. HOLMES

Assistant to the District Engineer

22-0610B - O. J. Neeley Ranch, Inc.

Community Room, Valley Bank, St. Anthony, Idaho

November 22, 1974 - 3:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Norman Williams	Ashton	Fremont Madison
Revelle Walker	Rexburg	Fremont-Madison
T. E. Lewis	St. Anthony	Fremont Madison
Mary Smith	Rexburg	Fremont-Madison
Ray Mortensen	Rexburg	Fremont Madison
[illegible]	Teton	
[illegible] Godfrey	Newdale	Canyon Creek District
[illegible]	Newdale	Canyon Creek Canal
Grant Kluzak	Newdale	Canyon Creek Irr Dist
Geo Browning	Newdale	Pony Creek
Dale Schindelman	Newdale,	Self
Grover Browning	Newdale	Self
Steve Lacy	Newdale	
O. J. Neeley	Newdale	Neeley Ranch
Burt Grover	Rigby	"

DEPARTMENT OF WATER R
EASTERN DISTRICT
1515 LINCOLN
IDAHO FALLS, IDAHO 8340

NAME AND ADDRESS OF SENDER

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED C.O.D.
☒ CERTIFIED

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	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS	POSTAGE	FEE	R. R. FEE	REST. DEL. FEE	ACTUAL VALUE	SURCHARGE	REMARKS*
1	510	W. J. Bergman, Squirrel Creek Irrig. Dist. Canal, Ashton	10	30	15				21-7054 21-0148
2	511	Mary Smith, Atty. 30 South 2nd East, Rexburg	10	30	15				21-7052 21-2156A 22-7102 21-2156B 21-7048 22-0610B
3									
4	512	R. Dillis Falkner, Fremont-Madison Irrig. Dist., St. Anthony	20	30	15				22-7105 21-2156A 21-7052 21-2156B 22-7102 21-7048
5									
6	[illegible] 7050	Art Larson, R.D. #6, P.O. Box 1099,							21-7052 21-0148
7	513	Merle Harshbarger, Box Squirrel, Idaho	10	30	15				21-7052
8	514	Kurt Kandler, Boom Creek Canal Co, Squirrel, Idaho	10	30	15				21-0148
9	515	Earl Hoopes, Teton Ranch, Inc Box 88, Rexburg, Idaho	10	30	15				22-7100
10	516	Mr. & Mrs. D. Lynn Ladd, Route #2, St. Anthony, Idaho	10	30	15				22-7102
11	517	D.K. Scott, Teton, Idaho	10	30	15				22-7102
12	518	Logan O'Mahoney, Ashton, Idaho	10	30	15				21-2156A 21-7044
13	519	Curtis Leslie, Ashton, Idaho	10	30	15				21-2156A 21-7048
14	520	Homer Jones, Crescent Rock Canal Co, Ashton, Idaho	10	30	15				21-2156A 21-7048 21-2156A
15	521	Rigby, Hatches & Andrus, P.A. Atty. 25 N. 2E., Rexburg	10	30	15				21-2156A 21-7048 21-2156B
16	522	Lynn Leslie, Ashton, Idaho	10	30	15				21-2156B
17	523	J. Hoopes Stevens, Box 176, Tetonia	10	30	15				22-0610B
18	524	Boyd Larsen Atty, 39 Professional Plaza Rexburg	10	30	15				22-0610B
19	525	Owen J. Neeley, O.J. Neeley Farms, Inc Box 425, Rexburg	10	30	15		$ 0.04		22-0610B
20									

TOTAL NO. OF PIECES LISTED BY SENDER 16

TOTAL NO. OF PIECES REC'D AT P.O. 16

POSTMASTER, PER (Name of receiving employee)

*Show under "Remarks" class postage paid if other than first or if international

POD Form 3877, Nov. 1968

APPLICATION FOR REGISTRATION OR CERTIFICATION

(Surcharges are not required on international registered mail)

c48—16—8792-15 U.S. GOVERNMENT PRINTING OFFICE

October 30, 1974

Valley Bank
30 West Main
St. Anthony, ID 83445

Attention Evelyn

Gentlemen:

This is to confirm the use of your Community Room for conferences and/or hearings to be held by this office on Thursday, November 21, 1974, starting at 9:00 a.m. and on Friday, November 22, 1974, starting at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

10/18/74

T. W.:

Brent Eames called re this. He wants hearing set as soon after Oct. 21 as possible. Please advise him.

Colleen

October 23, 1974

Re: Application for Transfer of Water Right No. 22-0610B O. J. Neeley Ranch, Inc.

Ms. Mary Smith
Attorney at Law
30 South Second West
Rexburg, ID 83440

Dear Ms. Smith:

This is to acknowledge receipt of the protest against the above referenced application for transfer of water right which you submitted on behalf of Fremont-Madison Irrigation District. 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 a conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

cc: Fremont-Madison Irrigation Dist.

October 23, 1974

Re: Application for Transfer of Water Right No. 22-0610B

Mr. O. J. Neeley
O. J. Neeley Ranch, Inc.
P.O. Box 425
Rexburg, ID 83440

Dear Mr. Neeley:

Enclosed please find a copy of the protest filed by Attorney Mary Smith on behalf of Fremont-Madison Irrigation District against the issuance of the above referenced transfer application.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Enclosure

RECEIVED
OCT 21 1974
Department of Water Resources
Eastern Region Office

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER ADMINISTRATION

IN THE MATTER OF THE APPLICATION OF O. J. NEELEY RANCH, INC., NUMBER 22-0610, for a change of the point of diversion and place of use of the waters of Pony Creek.	PROTEST OF THE FREMONT-MADISON IRRIGATION DISTRICT.

Comes now the Fremont-Madison Irrigation District a quasi-municipal corporation of the State of Idaho, with its office and post office address at St. Anthony, Idaho, and in response to notice given that O. J. Neeley Ranch, Inc., made application No. 22-0610 to change the point of diversion and place of use of the waters of Pony Creek, and makes the following Protest against the approval of such application:

1. That the supply of water in Pony Creek is not sufficient to warrant a change of point of diversion and place of use of the waters of Pony Creek.

2. That the anticipation of the applicant to change the point of diversion and place of use of the waters of Pony Creek is speculative because of the lack of water in Pony Creek, and any such attempt will reduce the quantity of water under existing water rights at the proposed point of diversion.

3. That the property is not within the boundaries of the Fremont-Madison Irrigation District, and any storage water cannot be delivered outside the boundaries of the District.

Rexelle Walker
Chairman, Board of Directors,
Fremont-Madison Irrigation
District.

STATE OF IDAHO,)
(SS
County of Madison.)

R. WILLIS WALKER , being first duly sworn, says that he is Chairman of the Board of Directors of the Fremont-Madison Irrigation District and he makes this verification for and on behalf of said District; that affiant has read the foregoing Protest and knows the contents thereof and as to the matters and things therein alleged, affiant believes the same to be true.

R. Willis Walker

Subscribed and sworn to before me this 18th day of October, 1974.

Mary Smith
Notary Public, residing at Rexburg, Idaho. My commission expires June 25, 1975.

(Seal)

XXXXXXXXXXXXXXXXXXXXX RESOURCES

October 10, 1974

Re: Application for Transfer of Water Right No. 22-0610B

Mr. Owen J. Neeley
O. J. Neeley Ranch, Inc.
P. O. Box 425
Rexburg, ID 83440

Dear Mr. Neeley:

Enclosed please find a copy of the protest filed by J. Wayne Stevens against the issuance of the above referenced transfer 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 a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

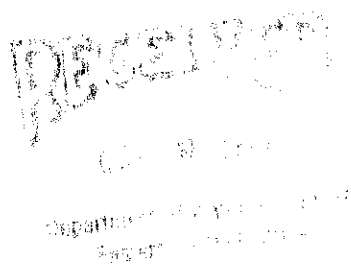
Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Enc: Copy of protest

I hereby protest Application for Transfer of Water Right No. 22-0610B in the name of O. J. Neeley Ranch, Inc. I feel that my right would definitely be affected by this transfer since the original right is water that doesn't exist only in high water or until June, and then it is less than the requested amount.



J. Wayne E. Stevens

XXXXXXXXXXXXXXXXXXXX RESOURCES

October 10, 1974

Re: Application for Transfer of Water Right No. 22-0610B

Mr. J. Wayne Stevens
Box 176
Tetonia, ID 83452

Dear Mr. Stevens:

We acknowledge receipt of your protest against the above referenced application for transfer of water right. 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 a conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

[illegible]

XXXXXCXXXXXXXXXXXXXX RESOURCES

September 30, 1974

Re: Application for Transfer of Water Right No. 22-0610

Mr. Art Larson, Watermaster
Water District No. 01
P.O. Box 1099
Idaho Falls, ID 83401

Dear Mr. Larson:

We have enclosed a Recommendation of Watermaster form to be completed concerning the above referenced application. Please complete the form and return it to this office on or before October 21, 1974.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Enclosure

XXXXXXXXXXXXXXXXXXXXXXXX RESOURCES

September 27, 1974

Re: Application for Transfer No. 22-0610 O. J. Neeley Ranch, Inc.

Rexburg Journal
23 South 1st East
Rexburg, ID 83440

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
Acting District Engineer

Bill submitted 10-15-74 by MB

RDC:MB

Enc: Legal Notice (1)

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 22-0610

Notice is hereby given that O.J. Neeley Ranch, Inc., Rexburg, Idaho, has applied to the Idaho Department of Water Resources for a change in place of use and point of diversion of the waters of Pony Creek. The right sought to be changed is evidenced by decree to O. J. Neeley & Myrtle Neeley in case of O. J. Neeley & Myrtle Neeley -vs- George Browning & Phebe Browning and Morris Slaymaker & Thelma Slaymaker, dated 5/21/1954 in Ninth Judicial District Court, Madison County and is recorded as follows:

AMOUNT: 8.7 cfs PRIORITY: June 15, 1900

DECREED POINT OF DIVERSION: SE¼SE¼, Sec. 33, T. 6N, R. 43E, B.M. Teton County

The water is used to irrigate 846 acres within the NE¼, S½NW¼, Sec. 32, N½, Sec. 19, NW¼NW¼, Sec. 31, N½NE¼, SE¼NE¼, E½SW¼, SE¼, Sec. 30, T. 6N, R. 43E, B.M.

TO BE CHANGED AS FOLLOWS

Only 1.35 cfs will be diverted at the first point of diversion within the NE¼SE¼, Sec. 30; and 7.35 cfs will be diverted at the second ~~of~~ point of diversion within the SW¼NW¼, Sec. 19, T. 6N, R. 43E, B.M., Madison County. The water will be used to irrigate 846 acres within the NE¼, N½NW¼, SE¼NW¼, Sec. 19, NE¼, Sec. 30, SW¼NW¼, S½, Sec. 18 SW¼, Sec. 17, T. 6N, R. 43E, 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 October 21, 1974.

R. KEITH HIGGINSON

Director

Published in the Rexburg Journal, Rexburg, Idaho, on October 3 and October 10, 1974.