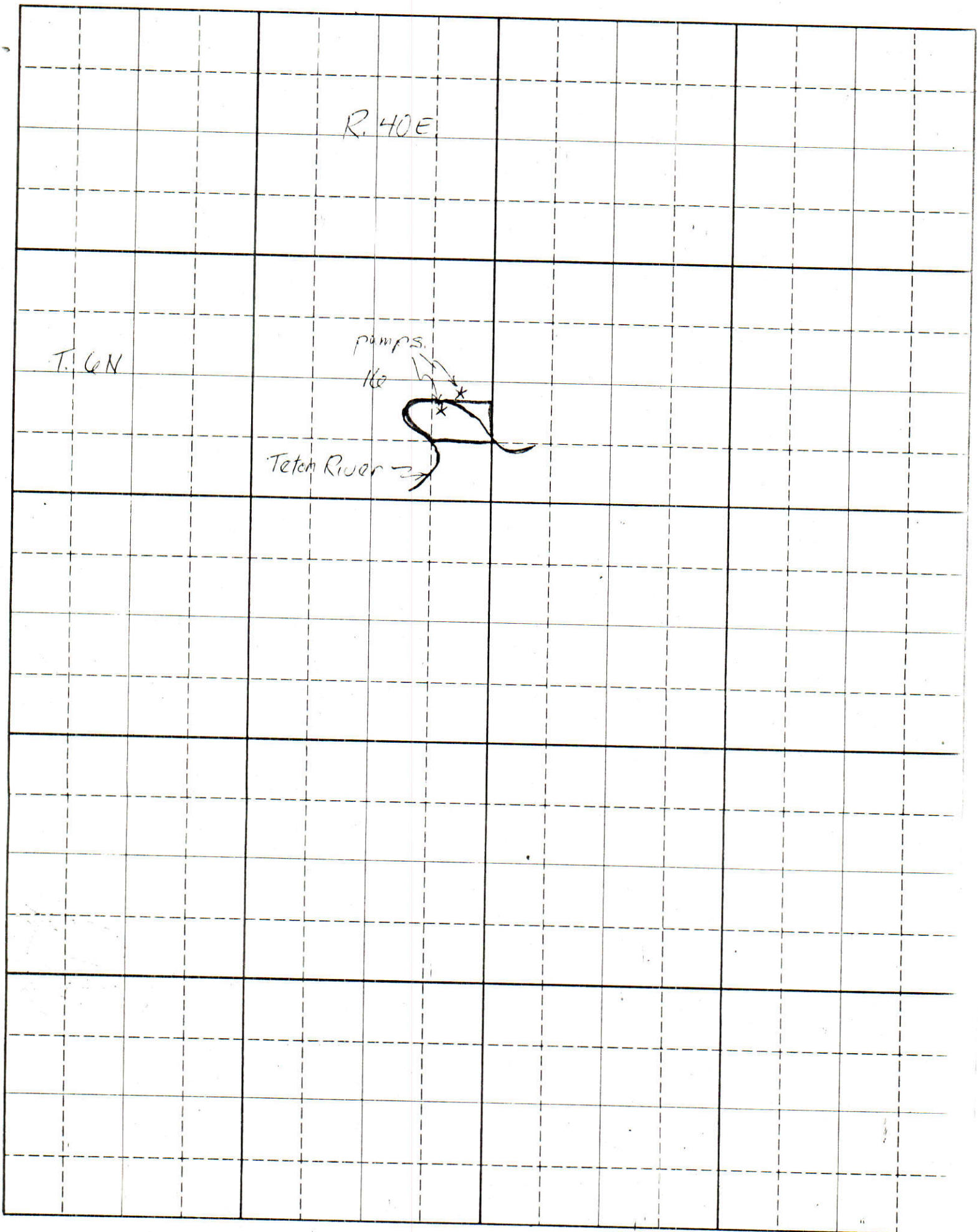


- b. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 2122 OF WATER RIGHT NOS.)
22-0422/0596/0471/0205/0477/0344/)
0235/0236/0206/0595/0345 IN THE)
NAME OF GORDON D. WRIGHT)
_____)

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties on November 24, 1986, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 67-5211, Idaho Code; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 30th day of March, 1987.


A. KENNETH DUNN
Director

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 2122 OF WATER RIGHT NOS.)
22-0422/0596/0471/0205/0477/0344/)
0235/0236/0206/0595/0345 IN THE)
NAME OF GORDON D. WRIGHT)

SOURCE: TETON RIVER

COUNTY: MADISON

PROPOSED MEMORANDUM DECISION AND ORDER

This matter is before the Department of Water Resources as a result of a review of unprotested Application for Transfer No. 2122 of the above captioned water rights.

FINDINGS OF FACT

1. On June 22, 1977, Gordon Wright filed an application with the Department of Water Resources to transfer the point of diversion for his portion of water he received as a shareholder in Woodmansee-Johnson Rexburg Mill Ditch Company. The application proposed to change water right Nos. 22-0422/0596/0471/0205/0477/0344/0235/0236/0206/0595/0345 decreed to the Woodmansee-Johnson Rexburg Mill Ditch Company in the case of Rexburg Irrigation Company, et al vs. Teton Irrigation Canal Company, et al, dated December 16, 1910. The application is identified as transfer No. 2122 in the department's records.

2. The application was researched by the department staff and it was determined that several rights held by Woodmansee-Johnson Rexburg Mill Ditch Company should have been but were not included as a part of the Application for Transfer No. 2122. The omitted rights were decreed in the case of J. A. Garner, et al -vs- G. Clyde Baldwin, Wm., dated March 15, 1930. They are identified by

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the department as water right Nos. 22-0001/0002/0003/0004/0005/0600, all with a priority of October 1, 1889.

3. Research by department staff also revealed that decreed right No. 22-0471, with a priority of October 1, 1889, which is included in the application was not held by Woodmansee-Johnson Rexburg Mill Ditch Company, and should not have been a part of Application for Transfer No. 2122.

4. To rectify the discrepancies evident on Application for Transfer No. 2122, an amended application was drafted and forwarded to the applicant on November 15, 1978.

5. The amended application was not returned prior to the applicant's death and James H. Wright, the applicant's son and current owner of the decreed place of use, has verbally advised the department on February 14, 1986, he was not interested in pursuing the transfer.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, authorizes the director of the department to approve an application for transfer in whole or in part, or upon conditions, provided no other water rights are injured, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Sec. 42-203, Idaho Code.

2. Section 42-203, Idaho Code defines local public interest as the affairs of the people in the area directly affected by the proposed use.

3. The interests of the applicant's successor, the shareholders of the Woodmansee-Johnson Rexburg Mill Ditch Company, and other water users on the Teton River would not be served by approval in whole or in part of a defective application which neglects to transfer several of the company's water rights while changing one water right not held by the company.

4. Application for transfer No. 2122 should be denied.

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APR 10 1987

ORDER

IT IS HEREBY ORDERED that pursuant to the provisions of Section 42-222,
Idaho Code, Application for Transfer No. 2122 is DENIED.

Dated this 21th day of November, 1986.


BOBBY D. FLEENOR
Hearing Officer

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Transfer No. 2122

Application No. 22-0422/0596/
0471/0205/0477/0344/0235/
0236/0206/0595/0345

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

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

DENIED

Name of applicant Gordon D. Wright Phone 356-3951

Post office address Rt. #1, Sugar City, ID 83448

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: M.L. Nave, Clark & Houghton, Alfred Ricks, W.J. Huskinson,
a. Decree to John S. Eames, and Woodmansee - Johnson Ditch
(Name)
in case of Rexburg Irrigation Company et al vs Teton Irrigation Canal Co. et al
dated 12-16-1910 in 6th District Court county of Fremont
(Name of court)
b. License No. issued by the Idaho Department of Water Resources
c. Claim No. on file with the Idaho Department of Water Resources
2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant
Applicant owns 40 shares of Woodmansee, Johnson Rexburg Mill Ditch Co. water stock
3. Source of water Teton River tributary to Snake River
4. Date of priority see enclosed document
5. Water is used for the following purposes:
amount 59.8 cfs 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. 59.8 cubic feet per second
&/or
b. acre feet per annum
7. Location of original point of diversion is NE ¼ of NW ¼ of Section 1
Township 6N Range 40E, B.M., in Madison County
Additional points of diversion, if any
8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6N	40E	15	X	X	X	X					X	X	X	X					
		11									X	X			X	X			
		22	X	X	X	X													
			DESCRIPTION OF LANDS FOR 22-0596, 22-0471, 22-0477, and 22-0595																
			NOT GIVEN IN DECREE																
			MICROFILMED																

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Total number of acres to be irrigated **

**Not given in decree

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. 1.81 cubic feet per second &/or 1.72 acre feet per annum The proportionate share for 40 shares with 1,396 outstanding shares 1,319

2. Point of diversion NE 1/4 NW 1/4, Section 1 Township 6N Range 40E, B.M., Madison County

Additional points

3. Place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	16													24.5	9			33.5

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

1. Change in point of diversion 1.81

a. Amount of water to be diverted 1.72 c.f.s. &/or acre feet

b. Point(s) of diversion NE 1/4 SE 1/4, Section 16 Township 6N Range 40E, B.M., Madison County

Additional points

c. Description of diverting works there will be 2 pumps; a permanent electric 15 hp pump on south side of river and portable PT0 on north side; buried steel main line with three 1/4-mile lateral lines.

d. Describe the reasons for applying for a change in the point(s) of diversion head ditch was destroyed by June 5th flood

2. Change in place of use

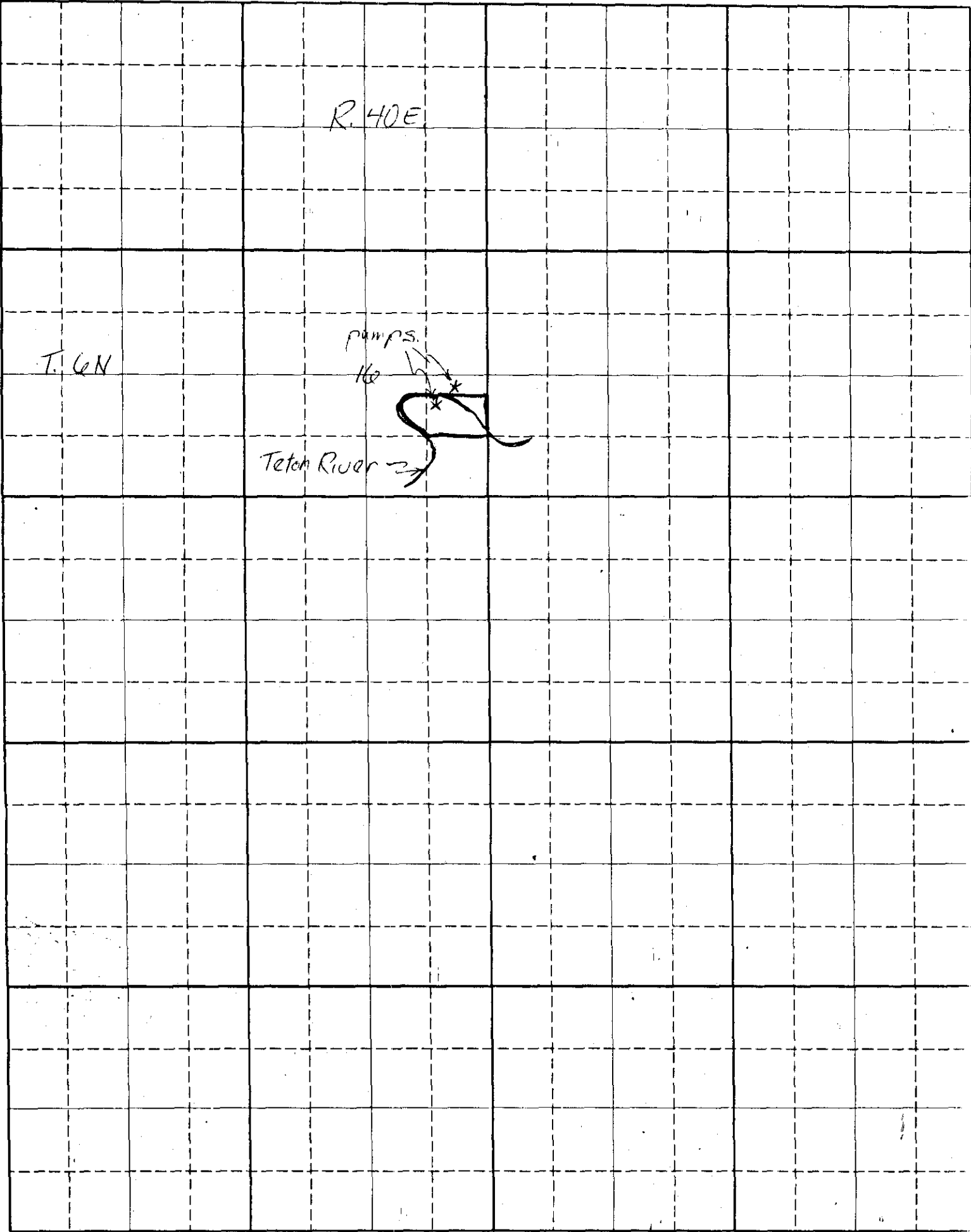
a. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	16													24.5	9			33.5

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Total number of acres to be irrigated 33.5

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 The Woodmansee Johnson is present owner
of decreed rights and has issued shares of
water stock certificates based on these rights.
Right 22-0471 originally was decreed to Roxburg Mill Co
for 60 cfs however only 9 cfs are presently being
delivered for irrigation under the name of Woodmansee Johnson.

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.

Gordon A. Knight
(Signature of applicant)

Subscribed and sworn to before me this 22nd day of June, 19 77

Allen Wray
(Notary public)

My commission expires 6/15/81

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0422/0596/0471/0205/
0477/0344/0235/0236,
and said application is hereby DENIED 0206/0595/0345

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

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

PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER.

Witness my hand this 30th day of March, 19 87

A. Kenneth Dunn
A. KENNETH DUNN, Director

FOR DEPARTMENT USE ONLY

Received by aw Date 6-22-77

Prelim. check by EMC Fee \$30.00

Receipted by aw Date 6-22-77

Published in Standard Journal #8206

Pub. dates May 9-16-1978

Watermaster recommendation requested on 6-28-77

W.D. #01 rec'd. 8-18-77

Art Larson

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Protest filed by APR 10 1987

Copies of protest forwarded by

Hearing held by Date

Recommended for approval denial
by Ernest Carlson

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FEB 27 1911

OFFICE OF STATE ENGINEER

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT.

Rexburg Irrigation Company, et al.,

PLAINTIFFS,

-VS-

Teton Irrigation Canal Company, et al.,

DEFENDANTS.

DECREE.

file 205-a

This cause coming on to be heard this 11th day of

1910, upon the report of F. J. Cowen, Referee heretofore appointed

for the purpose of taking the testimony and making recommendations

as to Findings of Fact, Conclusions of Law and Decree, to be entered

herein, and the said F. J. Cowen, having filed his report of the

testimony taken, and his recommendations as to Findings of Fact

and Conclusions of Law, which have heretofore been adopted, and the

respective plaintiffs and defendants and cross-complainants appearing

herein by their respective counsel, and the Court being fully informed

advised in the premises, and having ordered that judgment be

rendered in accordance with the report and recommendations of the said

Referee, for the reason of the law and the Report and Findings

and Conclusions of Law aforesaid,

It is ordered, Adjudged and Decreed, that the several parties

plaintiffs and defendants herein named, do have judgment respectively

for a right to use, for irrigation and other purposes, the following

number of inches of water, each fifty inches thereof to be equivalent

to a flow of one cubic foot per second, as prescribed by the law

APR 16 1911

~~23-0027~~
DeRome, Peter

100 inches. May 23, 1907. Indian Creek.

~~1-054~~
Dewey, George A.
Company

1,860 inches. May 15, 1898. North Fork of Snake River.

~~22-0228~~
Dewey, George A.

150 inches. June 1, 1891. Fox Creek.

Diamond A. Live
Stock Company.

(Decreed to Pine Creek,
Canal Company.)

Dille, A. C.

North Salem Agricul-
tural & Milling Canal
Company. Also, member
Roxana Canal Company.

~~1-055~~

Dilts & LaBelle
Ditch Company

1,400 inches. June 1, 1894. South Fork of
Snake River.

~~23-0028~~
Dixon, Charles S.

20 inches. July 1, 1899. Rainey Creek.

~~23-0029~~
Dixon, Charles S.

30 inches. June 1, 1900. Rainey Creek.

Downs, John

Enterprise Canal
Company.

Downs, Mary

Enterprise Canal
Company.

~~22-0229~~
Drake, Fred J.

150 inches. June 1, 1889. John Creek.

~~22-0230~~
Drake, Lavina

160 inches. June 1, 1890. Boque² Creek and
Drake Creek.

~~22-0231~~
Drake, Richard

160 inches. June 1, 1890. Fatterson Creek.

~~22-0232~~
Drake, William

10 inches. June 1, 1889. Mahogany Creek.

~~22-0233~~
Drake, William

150 inches. July 1, 1890. Mahognay Creek.

~~21-0041~~
Drake, J. P.

400 inches. June 1, 1890. Fall River. (Sold to
J. R. Silkey.)

~~35-0005~~
Driscoli, M. A.

210 inches. June 1, 1895. McTuckers Springs and
Hull's Slough.

Duncan, Henry

Trego Ditch Company.

~~35-0037~~
Dunham, H. E.

250 inches. June 1, 1884. Spring Creek.

Dunlap, William H.

(Sec H. R. Perry.)

~~22-0234~~
Durney, P. S.

15 inches. June 1, 1890. Trail Creek.

~~22-0605~~
Durney, P. S.

60 inches. May 15, 1895. Little Warm Creek.

Dwyer, Mrs M. F.

The Farmers' Friend
Canal Company.

~~22-0235~~
Eames, John S.

25 inches. July 15, 1896. Teton River.

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See file
22-0205
for
Correspondence

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