

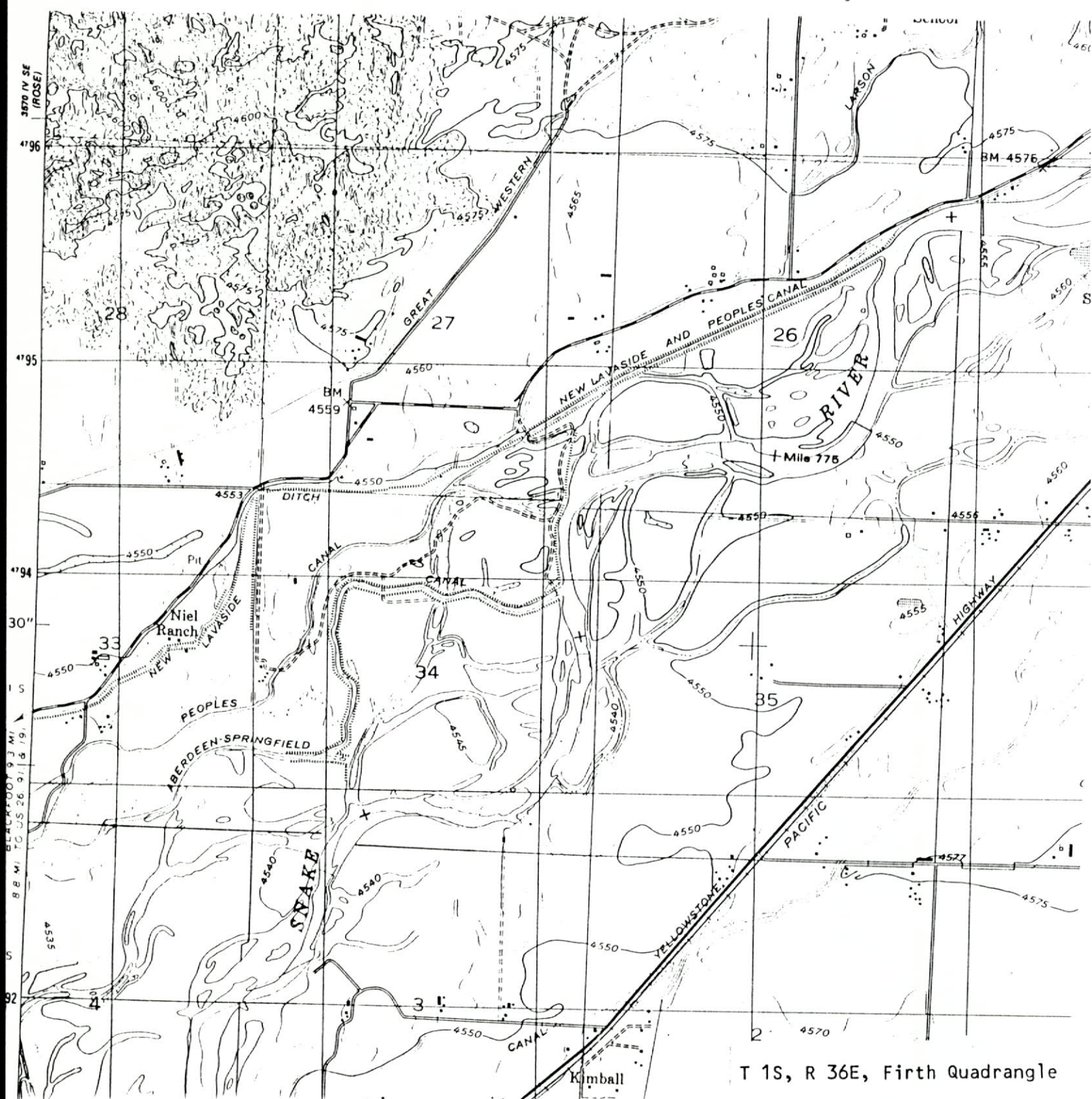
6. List any assessments, charges or fees currently being paid for the use of the water.
None.

7. If the water right is a permit, describe the work accomplished toward developing the right.

8. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached. Aberdeen-Springfield has pledged its support for Canyon View's transfer of this water out of the Aberdeen system.

9. Draw a map indicating the point(s) of diversion and place of use of the right, or portion thereof. Show clearly the land involved by section, township and range.

Written consent will be produced if necessary



NOTICE OF WATER FOR
RENT
FROM THE WATER
SUPPLY BANK

Notice is hereby given that portions of water right nos. 01-0023 and 01-0297 have been accepted into the Water Supply Bank by the Idaho Water Resource Board and are available for rent from the bank pursuant to provisions of Section 42-1761, et. seq., Idaho Code, and the Water Supply Bank Rules and Regulations.

Right 01-0023 authorizes the diversion of 77.9 cubic feet per second (cfs) of water from the Snake River for the irrigation of land within Aberdeen-Springfield Canal Company's service area. Right 01-0297 authorizes the diversion of 14.3 cfs of water from the Snake River for the same service area. The priorities of the rights are February 6, 1895 and April 1, 1939 respectively.

The rights are available for rent on a year to year basis or longer upon approval of the Board. The rental cost of the water will be comparable to that charged in the Water District 01 rental pool for stored water which in 1990 was \$2.75 per acre foot. Rental of these rights is also contingent upon water being available to fill rights bearing these priorities.

Applications to rent the water are available from the Director, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, ID 83706-2237 or from the department's regional offices in Boise, Idaho Falls or Twin Falls.
R. KEITH HIGGINSON,
Director

Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } ss.

APR 15 1991

No 22162

I, Linda Capps McRuer being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated March 21, 1991, and ending with the issue dated March 28, 1991.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 9 day of April in the year of 1991, before me, a Notary Public, personally appeared Linda Capps McRuer, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Linda R. Feltman
Notary Public for Idaho

Residing at Twin Falls County

My commission expires: 5/19/94

SEP 24 1993

Water Right No. _____

RECEIVED
JUN 4 1990

JUN 4 1990

Department of Water Resources

A. DESCRIPTION OF RIGHT AS RECORDED

- a. Decree No. _____ Decreed to _____

in case of _____ vs _____

dated _____ in _____ county of _____
(Name of court)

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

- c. Permit No. _____ Issued by the Idaho Department of Water Resources.

2. Source of water Snake River tributary to Columbia River

3. Date of priority See Exhibit A.

4. Water is used for the following purposes:

amount 77.9 cfs for irrigation purposes from April 1 to Nov. 1

amount 14.3 cfs for irrigation purposes from April 1 to Nov. 1

amount _____ for _____ purposes from _____ to _____
(month/day -- both dates inclusive)

5. Total amount of water under right: a. 92.2 cubic feet per second
&/or
b. _____ acre feet per annum

6. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 34
Township 1S Range 36E, B.M., in Bingham County

Additional points of diversion, if any _____

7. Lands irrigated or place of use: Lands within Aberdeen-Springfield Canal Co.'s service area.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
additional Corr. and exhibits located in file																			

Total number of acres to be irrigated _____

UNREFINED

MAR 14 1991

B. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease, 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.	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	

Total number of acres to be irrigated _____

C. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

1. Explain how the right, or portion thereof, was acquired and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right.

See Exhibit B.

2. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture:

See Exhibit C

3. Describe the relative availability of water to fill the right, or portion thereof. Attach evidence to support this description:

See Exhibit C

4. Describe any other water rights with the same purpose and place of use as the right, or portion thereof. Will the present place of use no longer receive water from any source?

Other rights diverted into the Aberdeen-Springfield Canal. Yes.

5. Describe the anticipated effect of this sale or lease upon other water users.

No adverse effects anticipated.

RECORDED

6. List any assessments, charges or fees currently being paid for the use of the water.

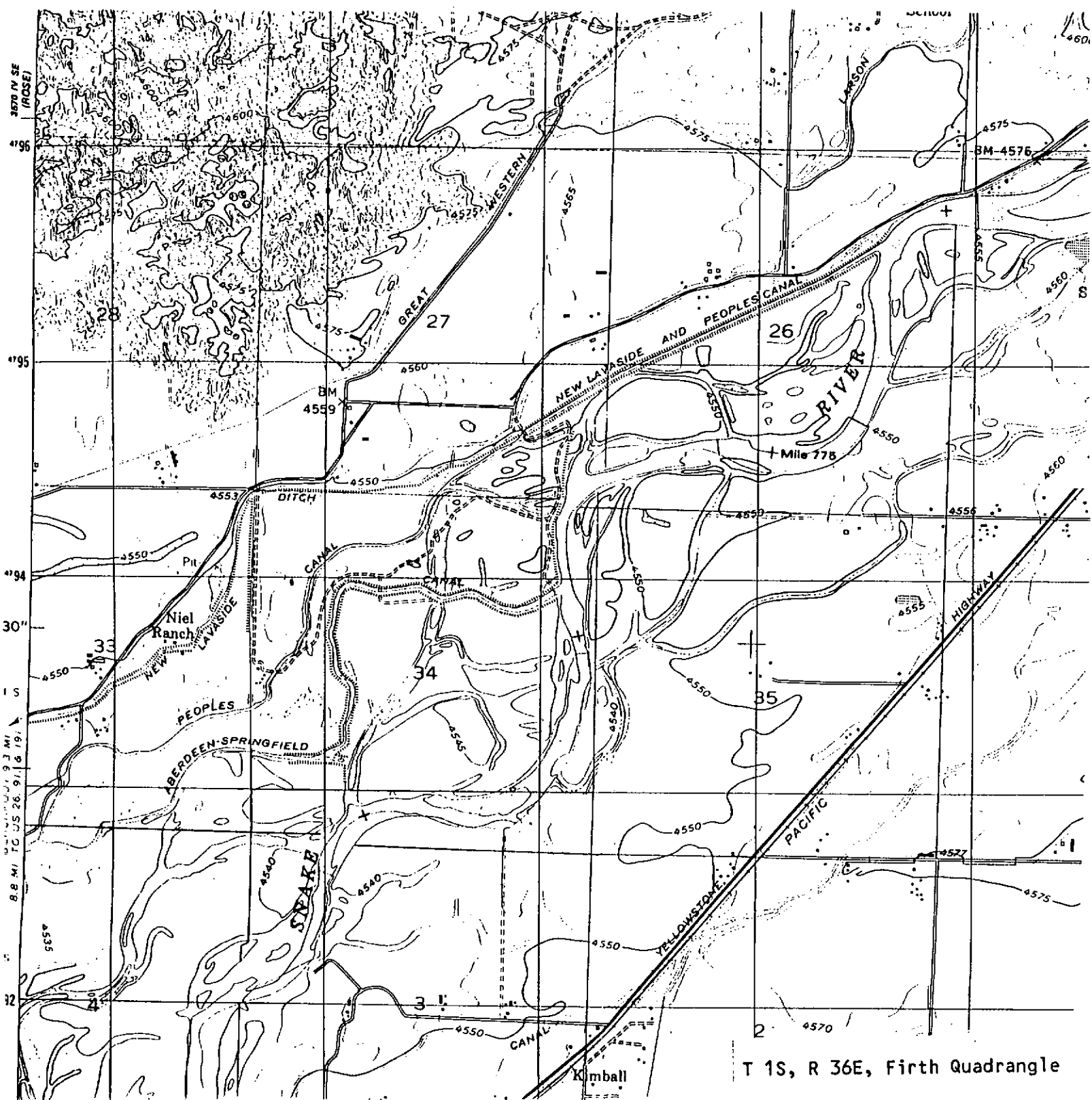
None.

7. If the water right is a permit, describe the work accomplished toward developing the right.

8. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached. Aberdeen-Springfield has pledged its support for Canyon View's transfer of this water out of the Aberdeen system.

9. Draw a map indicating the point(s) of diversion and place of use of the right, or portion thereof. Show clearly the land involved by section, township and range.

Written consent will be produced if necessary



T 1S, R 36E, Firth Quadrangle

RECORDED

10. Remarks _____

D. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:
- _____ For sale
- XX For lease for the period from April 1, 1990 to November 1, 1990
- _____ As a gift to the State of Idaho.
2. The minimum payment acceptable to the Seller/Lessor is: (Include the method of determining the minimum payment)
- \$2.50/acre feet available for diversion at lessee's points of diversion.
3. Payment contingent on subsequent sale or leasing of this right, or portion thereof, is:
- XX Acceptable _____ Not Acceptable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer the sale or lease of this right to the Idaho Water Resource Board.

6/1/90 By: Ellbert L Davis, President
(Date) (Signature of applicant)

ACTION OF THE WATER RESOURCE BOARD

This is to certify that the Board has reviewed Application to Sell or Lease a Water Right No. _____
and said Application is hereby _____

Witness my hand this _____ day of _____, 19____

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Prelim. check by _____

Watermaster recommendation requested on _____ rec'd. _____

Recommended for _____ approval _____ denial by _____

MAR 14 1991

SEE TRANS # 2024 INFILE ⁰¹~~02~~-0023 FOR MORE
INFORMATION

MICROFT WFT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

Application for Extension of Time to Avoid Forfeiture
of a Water Right

Department of Water Resources

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho, 83720, with the statutory fee of \$10.00 if the application involves 0.2 cfs or 20 acre feet or \$50.00 if in excess of these amounts.

1. Name of water right holder Canyon View Irrigation Company
Post office address P. O. Box 411, Twin Falls, ID 83301

2. The right was obtained or is evidenced by: See Exhibit "A" attached hereto
a. Decree to _____ in Case of _____
(Name)
vs. _____, Dated _____ in _____
(Name of Court)
Court, County of _____. Fully describe decree _____

b. License No. _____ issued by the Department of Water Resources.
c. Claim No. _____ on file with the Department of Water Resources.

3. Source of water SNAKE RIVER tributary to _____
(Name of stream or source)

4. Date of priority of right See Exhibit "A"

5. Amount of water a. See Exhibit "A" c.f.s. and/or
b. _____ acre feet/annum

6. Water is used for irrigation from April 1 to November 1

(Purpose) (Month-Day) (Month-Day)

7. Location of point of diversion is SE 1/4 NE 1/4 of Section 34
Township 1 S, Range 36 E., B.M., in Bingham County:
Additional points of diversion, if any None

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Tot. ls
			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	
2S	33E	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
3S	33E	2	40	40	40	40	40	40	40	40	40	40							400
3S	33E	3				40			40		40	40	40	40	40	40	40	40	400
3S	33E	4													40				40
3S	33E	10	40	40	40	40	40	40	40	40	40	40	40	40		40	40	40	600
3S	33E	11			40	40				40	40					40			200
3S	33E	12							40	40	40	40	40	40		40	40		320
3S	33E	13		40	40		40	40	40	40	40	40	40	40	40	40	40	40	560
3S	33E	14													40	40			80
3S	33E	15	40	40	40	40	40			40	40	40	40	40	40	40	40	40	560
3S	33E	20			40	40						40	40						160
3S	33E	24	40	40	40	40	40	40											240
3S	33E	29	40	40	40		40	40	40	40	40	40	40	40			40	40	520
3S	34E	18					40	40	40	40	40	40	40	40					320

Total number of acres irrigated 5,040

9. Give last date when water was applied to beneficial use 10/15/77
Length of extension of time requested See attached Exhibit "B" years, or until 4/15/88
(Date)
10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use See Exhibit "B" attached hereto

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

by Hugo E. Meyer
(Signature of Applicant)

Subscribed and sworn to before me this 10th day of April, 1981.

Allen Gannon
(Notary Public)

My commission expires Sept. 6, 1981

Residing at Buhl, Idaho

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons.

That water under water rights 01-0023 and 01-0297 be put to beneficial use on or before April 1, 1988.

Witness my hand this 9th day of October, 1981.

L. Glen Saxton
L. GLEN SAXTON
Chief, Operations Bureau

For Department Use Only

Received by Jim Date 4/14/81 Time 8:00 AM Preliminary check by Jim
Fee \$ 50.00 Receipted by Jim Date 8-3-81 Publication prepared by Jim
Published in Blackfoot News Dates 8/20 & 8/27/81
Publication approved by Jim Date 9/14/81 Protests filed by: _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for ☒ Approval // Denial by Jim

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MICROFILMED

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Township 8 South, Range 30 E.B.M.

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All in Bingham and Power Counties, Idaho

B. BLACKFOOT IRRIGATION CO.

1 0298

That Blackfoot Irrigation Co., shall have the right to divert and use 100.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Southeast Quarter of Section 6, Township 1 South, Range 37 E.B.M.

Lands to Which Appurtenant

Sections 25, 26, 35 and 36, all in Township 1 South, Range 36 E.B.M.;

Section 11	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 12	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 13	W $\frac{1}{2}$	
Section 14	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 15	W $\frac{1}{2}$	
Section 17	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 16	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 18	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 19	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 20	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 21	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 22	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 23	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 26	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 27	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 28	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 29	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 30	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 31	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 32	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 33	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 34	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 35	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 5 South , Range 32, E.B.M.

Section 5	W $\frac{1}{2}$	
Section 6	E $\frac{1}{2}$	
Section 7	E $\frac{1}{2}$	
Section 8	W $\frac{1}{2}$	
Section 18	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 6 South, Range 30 E.B.M.,

Section 25	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 36	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 6 South, Range 31 E.B.M.

Section 2	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 3	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 4	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 5	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 6	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 7	E $\frac{1}{2}$	
Section 8	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 9	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 10	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 11	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 15	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 16	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 17	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 18	E $\frac{1}{2}$	
Section 19	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 20	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 21	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 4 South, Range 32, E.B.M.

Section 1	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 2	S $\frac{1}{2}$	
Section 3	S $\frac{1}{2}$	
Section 7	E $\frac{1}{2}$ W $\frac{1}{2}$	
Section 8	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 9	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 10	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 11	E $\frac{1}{2}$ W $\frac{1}{2}$	
Section 12	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 13	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 14	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 15	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 16	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 17	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 18	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 19	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 20	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 21	W $\frac{1}{2}$	
Section 28	W $\frac{1}{2}$	
Section 29	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 30	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 31	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 32	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 4 South, Range 33 E.B.M.,

Section 2	W $\frac{1}{2}$	
Section 3	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 4	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 5	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 6	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 7	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 4 South, Range 33 E.B.M.

Section 8	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 9	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 10	W $\frac{1}{2}$	
Section 16	E $\frac{1}{2}$	
Section 17	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 18	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 19	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 20	W $\frac{1}{2}$	

Township 5 South, Range 31 E.B.M.

Section 1	W $\frac{1}{2}$	
Section 2	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 3	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 7	E $\frac{1}{2}$	
Section 8	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 9	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 10	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 2 South, Range 35, E.B.M.

Section 8	$S\frac{1}{2}$	
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 16	$E\frac{1}{2}$	

Township 3 South Range 33 E.B.M.

Section 1	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 2	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 3	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 4	$E\frac{1}{2}$	
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 11	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 12	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 13	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 14	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 15	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$S\frac{1}{2}$	
Section 21	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 22	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 23	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 24	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 25	$W\frac{1}{2}$	
Section 26	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 27	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 28	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 29	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 30	$E\frac{1}{2}$	
Section 31	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 32	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 33	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 34	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 35	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 3 South, Range 34 B. B.M.

Section 6	$W\frac{1}{2}$
Section 18	$W\frac{1}{2}$

Township 4 South, Range 31 E.B.M.

Section 11	$E\frac{1}{2}$	
Section 13	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 14	$E\frac{1}{2}$	
Section 22	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 23	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 24	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 25	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 26	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 27	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 28	$E\frac{1}{2}$	
Section 33	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 34	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 35	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 36	$N\frac{1}{2}$	

Southwest Quarter of the Northwest Quarter Section 32;
Northeast Quarter of the Northeast Quarter; East half of
Northwest Quarter of Northeast Quarter; North ten acres of
the Southeast Quarter of the Northeast Quarter Section 31,
all lying in Township one North of Range thirty seven East B.M.
in Bingham County, Idaho; Northeast Quarter of Section 24,
Township one North, Range 36 E.B.M. in Bingham County, Idaho.

III

That the following parties are entitled to divert and use
pro rata, for irrigation and other purposes, the flood waters of
the Snake River and its tributaries, in the amounts listed, all
with the same priority date of April 1, 1939, which water shall be
diverted at the points and be appurtenant to the lands described
herein:

A. ABERDEEN-SPRINGFIELD CANAL COMPANY

1 0287 7

That Aberdeen-Springfield Canal /Company shall have the
right to divert and use 230.0 cubic feet of water per second at
the following point of diversion and upon the following described
lands:

Point of Diversion

Northwest Quarter of Section 34, Township 1 South
Range 36 E.B.M.

Lands to /Which Appurtenant

Township 2 South, Range 33 E.B.M.

Section 35	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 36	E $\frac{1}{2}$	W $\frac{1}{2}$

Township 2 South, Range 34 E.B.M.

Section 23	W $\frac{1}{2}$	
Section 27	E $\frac{1}{2}$	
Section 28	W $\frac{1}{2}$	
Section 29	S $\frac{1}{2}$	
Section 31	E $\frac{1}{2}$	W $\frac{1}{2}$
Section 32	E $\frac{1}{2}$	W $\frac{1}{2}$

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

ABERDEEN-SPRINGFIELD CANAL COMPANY, a corporation;
REBECCA HOLDEN, a widow; BLACKFOOT IRRIGATION CO., a
corporation; BRAMWELL DITCH CO., a corporation; BUTLER
ISLAND CANAL CO., a corporation; BUTTE & MARKET LAKE
CANAL CO., a corporation; CLARK & EDWARDS CANAL CO.,
a corporation; CORBETT SLOUGH DITCH CO., a corporation;
DANSKIN DITCH CO., a corporation; DILTS IRRIGATION CO.,
LTD., a corporation; DEWEY FOX; HARRISON CANAL &
IRRIGATION CO., a corporation; MARVON M. NEWBY; IDAHO
IRRIGATION DISTRICT, an irrigation district organized
and existing under the laws of the State of Idaho;
MARVIN M. JOHNSON; WILLIAM S. HOLDEN; TED BLOSCHE;
MARVEL JACKSON and V. E. HIER; LABELLE IRRIGATION
CO., a corporation; LIBERTY PARK IRRIGATION CO., a
corporation; LONG ISLAND IRRIGATION CO., a corporation;
ROBERT D. MACKAY; JOHN L. NELSON, ADRIAN NELSON, ERVEN
SCOTT, VELMA ANDERSON and LAURA ANDERSON; NEW SWEDEN
IRRIGATION DISTRICT, an irrigation district organized
and existing under the laws of the State of Idaho;
CARL JOHNSON; UTAH-IDAHO SUGAR CO., a corporation;
PROGRESSIVE IRRIGATION DISTRICT, a corporation; REID
CANAL CO., a corporation; RIVERSIDE DITCH CO., a cor-
poration; SHATTUCK IRRIGATION CO., a corporation; SAM
SAKAGUCHI; SNAKE RIVER VALLEY IRRIGATION DISTRICT, an
irrigation district organized and existing under the
laws of the State of Idaho; TEXAS SLOUGH IRRIGATING
CANAL CO., a corporation; R. DUWAYNE SCOTT; WEST
LABELLE IRRIGATION CO., a corporation; ENTERPRISE
IRRIGATION DISTRICT, an irrigation district organized
and existing under the laws of the State of Idaho;
RALPH D. MILLER; FARMERS FRIEND CANAL CO., a corpora-
tion; SALEM UNION CANAL CO., a corporation; EGIN
IRRIGATING CO., a corporation; INDEPENDENT CANAL CO., LTD.
a corporation; JAMES A. CROFT; PINCOCK-BYINGTON CANAL
CO. a corporation; PINCOCK-GARNER DITCH COMPANY, a
corporation; FALL RIVER IRRIGATION CO., a corporation;
ST. ANTHONY UNION CANAL CO., a corporation, CONSOLIDAT-
ED FARMERS CANAL COMPANY, a corporation; WILFORD IRRI-
GATION & MFG. CO., a corporation; D. F. RICHARDS; D. V.
HAGENBARTH; AL FRAZIER; SAUREY-SOMMER DITCH by LeRoy
Saurey; FARMERS OWN DITCH CO., a corporation; TETON
IRRIGATION & MFG. CO., a corporation; GEORGE BAUER,
BENJAMIN STEWART, ANDREW STEWART, ANNIE WRIGHT, BOYD
HOLLIST and ALICE P. BIRCH, operating as Stewart Canal;
BURLEY IRRIGATION DISTRICT, an irrigation district
organized and existing under the laws of the State of
Idaho; MINIDOKA IRRIGATION DISTRICT, an irrigation
district organized and existing under the laws of the
State of Idaho; MILNER LOW-LIFT IRRIGATION DISTRICT,
an irrigation District organized and existing under the
laws of the State of Idaho; TWIN FALLS CANAL COMPANY,
a corporation; CLARENCE H. TILLEY; WILLIAM KENDALL-
FALLS IRRIGATION DISTRICT, an irrigation district
organized and existing under the laws of the State
of Idaho; A & B IRRIGATION DISTRICT, an irrigation
district organized and existing under the laws of
the State of Idaho; OTIS ORTEN; AMERICAN FALLS RESER-
VOIR DISTRICT, an irrigation district organized and
existing under the laws of the State of Idaho.

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MICROFILMED

Area Code 208
734-5380

01-0297
Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company

TWIN FALLS, ID 83303

January 18, 1991

Mr. Norman C. Young
Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706

RE: Canyon View Irrigation Company - Application to Water Bank

Dear Norm:

This is a follow up to our telephone conversation of 1/17/91 relative to our natural flow and flood water rights in the Snake River. You have our 6/1/90 application, along with its exhibits, wherein we were asking that the water be placed in the bank for the 1990 season.

A review of our file will show that we have not complied with Glen Saxton's letter of 9/18/90, by withdrawing our 1976 Application For Transfer #2024. Our purpose in this letter is to formally inform you of our intent as follows:

1. Withdraw the aforementioned application #2024.
2. Amend the "lease period" in the 6/1/90 Water Bank Application to read April 1, 1991 to November 1, 1991.

I understood you to say yesterday that this would allow the director of IDWR to notify us of unconditional acceptance of the above mentioned water rights into the State Water Bank and that it would be available for use during the 1991 season. We look forward to that conformation.

Sincerely,

CANYON VIEW IRRIGATION COMPANY

Elbert G. Davis

Elbert G. Davis
President/Manager

EGD:krb
PC: Glen Saxton
Jeff Fereday

RECEIVED
JAN 22 1991
Department of Water Resources

RECEIVED

SEP 24 1993

RECEIVED

Transfer No. 01-0023/01-0297/
01-2068/01-2064
Application No. 2024

NOV 29 1976

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

Department of Water Resources

Name of applicant Canyon View Irrigation Company Phone 208-785-4001

Post office address P. O. Box 411, Twin Falls, Idaho 83301 (1430 Filer Ave. East)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: See description of water right contained in attached copy of Contract of Sale from Rockford Canal Company to Canyon View Irrigation Company. (See Page B-4)

This water right is to be used in conjunction with Permit #2 7100 and when put to beneficial use will not exceed the number of acres contained within this original right for natural water.

dated _____ in _____ county of _____

(Name of court)

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

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

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant See attached copy of Agreement of Sale from Rockford Canal Company to Canyon View Irrigation Company.

3. Source of water Snake River (see _____ tributary to _____)

4. Date of priority attached agreement)

5. Water is used for the following purposes:

amount entire for irrigation purposes from April 1 to November 1

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

(month/day - both dates inclusive)

6. Total amount of water under right: a. 92.2 cubic feet per second

b. 14,918.7425 acre feet per annum

7. Location of original point of diversion is SE 1/4 of NE 1/4 of Section 34

Township 1 S Range 36 E B.M. in Bingham County

Additional points of diversion, if any None

8. Lands irrigated or 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	
25	33E	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
35	33E	2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	400
		3				40			40		40	40	40	40	40	40	40	40	400
															40				40
		10	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	600
		11			40	40				40	40				40				200
		12							40	40	40	40	40	40	40	40			320
		13		40	40		40	40	40	40	40	40	40	40	40	40	40	40	560
		14													40	40			80
		15	40	40	40	40	40			40	40	40	40	40	40	40	40	40	560
		20			40	40					40	40							160
		24	40	40	40	40	40	40											240
		29	40	40	40		40	40	40	40	40	40	40				40	40	520
		18					40	40	40	40	40	40	40						320

Total number of acres to be irrigated 5,040

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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	
8	12E	30	40	40	40	40									40	40	40	40	320
8	12E	31	40	40	40	40									40	40	40	40	320
8	12E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8	12E	32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8	12E	20									40	40	40	40					160
8	12E	28									40	40	40	40					160
8	12E	33					40	40	40	40									160
9	12E	3					40	40	40	40	40	40	40	40	40	40	40	40	480
9	12E	4	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	5	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	8	40	40	40	40													160
9	12E	9	40	40	40	40	40	40	40	40									320
9	12E	10	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	12	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	15	40	40	40	40	40	40	40	40					40	40	40	40	480
9	12E	14	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	13	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	22	40	40	40	40									40			40	240
9	12E	23	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	24	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	25	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	27	40	40	40	40									40	40	40	40	320
9	12E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	12E	36	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	1	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	3	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	10	40	40	40	40													160
10	12E	11	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	12	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
10	12E	13	40	40	40	40	40	40		40	40				40	40		40	440
9	13E	7									40	40	40	40					160
9	13E	18	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	17	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	16									40	40	40	40	40	40	40	40	320
9	13E	19	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	21	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	27		40	40		40	40	40	40	40	40	40			40	40		480
9	13E	28	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	31	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	33	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
9	13E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640

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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 _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. 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	

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

1. Change in point of diversion a. Total amount purchased under attached contract, less required transmission loss, _____ c.f.s. &/or _____ acre feet
- a. Amount of water to be diverted _____ c.f.s. &/or _____ acre feet
- b. Point(s) of diversion NE ¼ SE ¼, Section 29 Township 10S
Range 21E, B.M., Twin Falls County
Additional points _____

- c. Description of diverting works Milner Dam, Twin Falls Canal Company main head-gate, main canal to the highline and down the highline to later 1-A and to the end of 1-A, then through Canyon View Canal system to lands described below.
- d. Describe the reasons for applying for a change in the point(s) of diversion Water is being transferred from land located in Bingham County, Idaho, to land located in Twin Falls County, Idaho, and Owyhee County, Idaho.

2. Change in place of use

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

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

Total number of acres to be irrigated _____

SEP 24 1993

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.

CANYON VIEW IRRIGATION COMPANY, INC.

by Robert L. Herke, Pres.
(Signature of applicant)

Subscribed and sworn to before me this 10th day of May, 19 76

James V. Vungeler
(Notary public)
Residing at
Bill Shale

My commission expires 1-7-79

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 <u>OW</u> <u>OW</u> <u>DET</u>	Date <u>10-14-76</u> <u>7-23-76</u> <u>7-23-76</u>	Protest filed by _____
Prelim. check by <u>RDC</u>	Fee <u>\$30.00</u>	_____
Receipted by <u>OW</u>	Date <u>11-22-76</u>	_____
Published in <u>Shackleton News</u>	<u>#4431</u>	Copies of protest forwarded by _____
Pub. dates <u>Nov. 24 & 9, 1976</u>		Hearing held by _____ Date _____
Watermaster recommendation requested on <u>11-26-76</u>		Recommended for _____ approval _____ denial _____
<u>WD 61 Ret</u> rec'd.		by _____

34 1993

**NOTICE OF WATER FOR
RENT
FROM THE WATER
SUPPLY BANK**

Notice is hereby given that portions of water right nos. 91-0023 and 01-0297 have been accepted into the Water Supply Bank by the Idaho Water Resource Board and are available for rent from the bank pursuant to provisions of Section 42-1761, et. seq., Idaho Code, and the Water Supply Bank Rules and Regulations.

Right 01-0023 authorizes the diversion of 77.9 cubic feet per second (cfs) of water from the Snake River for the irrigation of land within Aberdeen-Springfield Canal Company's service area. Right 01-0297 authorizes the diversion of 14.3 cfs of water from the Snake River for the same service area. The priorities of the rights are February 6, 1895 and April 1, 1939 respectively.

The rights are available for rent on a year to year basis or longer upon approval of the Board. The rental cost of the water will be comparable to that charged in the Water District 01 rental pool for stored water which in 1990 was \$2.75 per acre foot. Rental of these rights is also contingent upon water being available to fill rights bearing these priorities.

Applications to rent the water are available from the Director, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, ID 83706-2237 or from

Affidavit of Publication

STATE OF IDAHO

COUNTY OF TWIN FALLS } SS.

APR 15 1991

No 22162

I, Linda Capps McKinnis, being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated March 21, 1991, and ending with the issue dated March 28, 1991.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO

COUNTY OF TWIN FALLS

On this 9 day of April in the year of 1991, before me,

a Notary Public, personally appeared Linda Capps McKinnis, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Debra R. Feltman
Notary Public for Idaho

Residing at Twin Falls County

My commission expires: 5/19/94

SEP 24 1993

no st
or
shelf

NOTICE OF WATER FOR RENT
FROM THE WATER SUPPLY BANK

Notice is hereby given that portions of water right nos. 01-0023 and 01-0297 have been accepted into the Water Supply Bank by the Idaho Water Resource Board and are available for rent from the bank pursuant to provisions of Section 42-1761, et. seq., Idaho Code, and the Water Supply Bank Rules and Regulations.

Right 01-0023 authorizes the diversion of 77.9 cubic feet per second (cfs) of water from the Snake River for the irrigation of land within Aberdeen-Springfield Canal Company's service area. Right 01-0297 authorizes the diversion of 14.3 cfs of water from the Snake River for the same service area. The priorities of the rights are February 6, 1895 and April 1, 1939, respectively.

The rights are available for rent on a year to year basis or longer upon approval of the Board. The rental cost of the water will be comparable to that charged in the Water District 01 rental pool for stored water which in 1990 was \$2.75 per acre foot. Rental of these rights is also contingent upon water being available to fill rights bearing these priorities.

Applications to rent the water are available from the Director, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, ID 83706-2237 or from the department's regional offices in Boise, Idaho Falls or Twin Falls.

R. KEITH HIGGINSON, Director

RECEIVED

SEP 24 1993

March 14, 1991

Idaho State Journal
Box 431
Pocatello, ID 83201

Gentlemen:

Re: Legal Publication

Enclosed is a copy of a legal notice we wish to have published once a week for two consecutive weeks starting on March 21, 1991.

Please include an affidavit of publication with the biling. Also, send the billing to this address, attention: Rita.

If there are any problems with advertising the notice as requested please contact me at 372-7900.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED

SEP 24 1993

March 14, 1991

Times News
P. O. Box 548
Twin Falls, ID 83301

Gentlemen:

Re: Legal Publication

Enclosed is a copy of a legal notice we wish to have published once a week for two consecutive weeks starting on March 21, 1991.

Please include an affidavit of publication with the billing. Also, send the billing to this address, attention: Rita.

If there are any problems with advertising the notice as requested please contact me at 372-7900.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED
SEP 24 1993

March 14, 1991

Post Register
P. O. Box 1800
Idaho Falls, ID 83401

Gentlemen:

Re: Legal Publication

Enclosed is a copy of a legal notice we wish to have published once a week for two consecutive weeks starting on March 21, 1991.

Please include an affidavit of publication with the biling. Also, send the billing to this address, attention: Rita.

If there are any problems with advertising the notice as requested please contact me at 372-7900.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

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SEP 24 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

February 6, 1991

Canyon View Irrigation Company
c/o Elbert G. Davis
P.O. Box 411
Twin Falls, ID 83303

RE: APPLICATION TO WATER SUPPLY BANK - 01-0023 & 01-0297

Dear Mr. Davis:

I have reviewed your letter dated January 18, 1991 in connection with the above referenced water rights of Canyon View Irrigating Company (Canyon View).

Based on your letter, the department will consider application for transfer no. 2024 filed in connection with the above referenced rights to be withdrawn and to be null and void. In addition, the department will consider that the rights of Canyon View accepted by the Board into the Water Supply Bank are offered through the 1991 irrigation season.

My intent in our discussion on January 17, 1991 was not to indicate that the rights have been or will be "unconditionally accepted" into the Water Supply Bank. I cannot alter the Board's resolution accepting the rights into the bank.

The director will now follow the procedure including providing notice of the availability of the water rights from the water supply bank and the evaluation of any applications for the use of the rights. After a specific proposal is identified, the director will provide notice pursuant to Section 42-222, Idaho Code.

I appreciate the receipt of your letter. Please feel free to contact the department if you have questions.

Sincerely,


NORMAN C. YOUNG
Administrator

NCY:js
cc: IDWR - E. Region
Jeff Fereday
Files 01-0023 and 01-0297



MAR 14 1991

MEMORANDUM

TO: Norman C. Young
FROM: Phillip J. Rassier
RE: Canyon View Water Bank Request
DATE: May 14, 1990

This memorandum responds to your request of May 4, 1990, asking for a legal analysis of the information supplied in Jeff Fereday's letter of April 19, 1990, regarding the efforts of Canyon View Irrigation Co. to place certain water rights in the Water Board's Water Supply Bank.

It is my understanding that as of April 20, 1990, the Department of Water Resources informed Canyon View that the department considers Canyon View's application to place water in the water supply bank to be withdrawn and that it will not be considered unless renewed.

Assuming that Canyon View will renew its application to place the water rights in the water supply bank, it is the responsibility of the director under Rule 3 of the Water Supply Bank Rules and Regulations to review the application and make a recommendation to the Board regarding the application. The purpose of the legal analysis provided herein is to assist the director in making a recommendation to the Board.

Mr. Fereday's letter represents that the two decreed Snake River natural flow water rights sought to be placed in the water supply bank were purchased by Canyon View in 1976 from the Rockford Canal Company. The letter states that from 1918 through 1970 the Rockford water rights were diverted by the Aberdeen-Springfield Canal Company and delivered to Rockford's pumping station on the Aberdeen canal.

The Fereday letter states that following 1970, the records of the Watermaster for Water District 01 show that the Rockford rights continued to be diverted into the Aberdeen-Springfield canal. Canyon View expects to receive a letter from Aberdeen stating that Aberdeen's shareholders continued to place the Rockford rights to beneficial use since 1970. Aberdeen shareholders are apparently able to make beneficial use of the Rockford rights by decreasing the amount of stored water required to be purchased and used.

The legal issue raised, assuming that Aberdeen's use of the water is factually established, is whether use by Aberdeen of Canyon View's water rights serves to protect the rights from loss

RECORDED

MAR 14 1991

*file 01-0023
01-0297*

by forfeiture.

I.C. § 42-222 provides that a water right shall be forfeited by a failure for the term of five years to apply it to the beneficial use for which it was appropriated and thereafter shall revert to the state and be again subject to appropriation. The Idaho Supreme Court has held on several occasions that forfeitures are not favored, and that clear and convincing proof is required to support a forfeiture. See Jenkins v. State, Dept. of Water Resources, 103 Idaho 384, 389, 647 P.2d 1256 (1982); Gilbert v. Smith, 97 Idaho 735, 740, 552 P.2d 1220 (1976); Application of Boyer, 73 Idaho 152, 159, 248 P.2d 540 (1952) (forfeitures are abhorrent and all intendments are to be indulged against a forfeiture); Hurst v. Idaho Iowa Lateral & Res. Co., 42 Idaho 436, 442, 246 P. 23 (1926) (where no public interest is favored thereby equity leans against declaring a forfeiture).

The Court has on several occasions considered cases in which a water user has not put a water right to beneficial use for a consecutive five year period although the right has been used by another water user. In Zezi v. Lightfoot, 57 Idaho 707, 714, 68 P.2d 50 (1937) the Court held that a water right for mining purposes had not been forfeited even though not used by the owner for more than five consecutive years because another water user had used the right with the permission of the water right holder. The Lightfoot case is cited with approval in Reynolds Irrigation Dist. v. Sproat, 70 Idaho 217, 223, 214 P.2d 880 (1950).

The holding in the Lightfoot case leads me to conclude that it is possible under Idaho law that the Canyon View water right has been saved from forfeiture due to the continued use of the water by the shareholders of the Aberdeen-Springfield Canal Company. Further factual information is required to substantiate the use of the water right by the Aberdeen-Springfield shareholders.

Phillip J. Rassier
Phillip J. Rassier

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MAR 14 1981

October 24, 1990

Canyon View Irrigation Company
P. O. Box 411
Twin Falls, ID 83303

RE: WATER RIGHTS 01-0023 (PART) AND 01-0297 (PART)

Gentlemen:

Enclosed is a copy of my September 18, 1990 correspondence to which I have not received a reply.

Please advise the department soon with respect to Protested Application for Transfer No. 2024 which was the subject of my prior letter in order that notice of the rights within the bank may be given.

If you have questions, feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: Jeff Fereday
Ron Carlson

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MAR 4 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 18, 1990

Canyon View Irrigation Company
P.O. Box 411
Twin Falls, ID 83303

RE: ACCEPTANCE OF RIGHTS 01-0023 (PART) AND 01-0297 (PART) INTO
THE WATER SUPPLY BANK

Gentlemen:

Enclosed is a copy of a resolution enacted by the Idaho Water Resource Board on September 14, 1990, which accepts the above referenced water rights into the Water Supply Bank.

The department intends to give notice of the availability of rental of the rights from the bank. Notice will be provided however, after you confirm the withdrawal of protested Application For Transfer No. 2024 which was filed with the department in 1976. This protested application for transfer essentially now conflicts with the concept of rental of these rights from the water supply bank and in general just "clutters" department records with respect to acceptance of the rights into the water supply bank.

Please feel free to contact the department if you have questions.

Sincerely,

L. Glen Saxton
L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: Jeff Fereday
Ron Carlson

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MAR 14 1991

BEFORE THE IDAHO WATER RESOURCE BOARD
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
01-0023 AND 01-0297 TO LEASE)
WATER TO THE WATER SUPPLY BANK)

RESOLUTION

WHEREAS, the Canyon View Irrigation Company (applicant) has submitted an application to place 77.9 cfs of water represented by Decreed Right No. 01-0023 and 14.3 cfs of water represented by Decreed Right No. 01-0297 into the Water Supply Bank (bank) which is administered by the Idaho Water Resource Board (Board); and

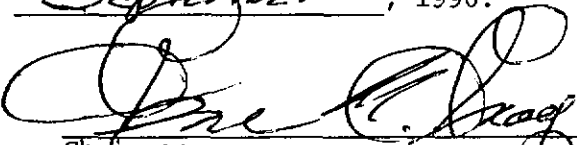
WHEREAS, the Director of the Department of Water Resources (Director) has investigated the water right and the application to lease the right to the bank as required by Water Supply Bank Rule 4.2; and,

WHEREAS, the Director and the Board find that the requirements for leasing water to the bank have been met by the applicant,

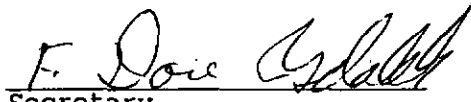
NOW, THEREFORE, BE IT RESOLVED:

1. That the Board accept rights No. 01-0023 and 01-0297 into the bank with the understanding that the existence and validity of the water right be subject to the Director's review and jurisdiction.
2. That the Board accept the rights into the bank on a contingency basis with payment to be made to the lessor only upon rental of the right or portion thereof from the bank; and
3. That upon a finding of the existence and validity of the water right, the Director be authorized to rent the right or portion thereof from the bank in compliance with Water Supply Bank Rule 4.2; and
4. Acceptance of the rights into the bank does not prejudice any issues related to the validity of the rights which are raised during the Snake River Basin Adjudication.
5. That payment to the lessor be consistent with the Water Supply Bank Rules.

Adopted this 14th day of September, 1990.


Chairman

Attest:


Secretary

RECORDED
MAR 14 1991

01-0297

State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 25, 1989

Mr. Jeffrey C. Fereday
GIVENS, PURSLEY, WEBB & HUNTLEY
P.O. Box 2720
Boise, Idaho 83701

Re: Water Bank Application of Canyon View Irrigation
Company

Jeff
Dear Mr. Fereday:

I have reviewed your letter of October 19, 1989, to Water Resource Board Chairman Gene Gray regarding certain provisions of Idaho's water supply bank statutes.

Your letter states that you interpret the provisions of I.C. §§ 42-1763 and 1766(2) to require the director's approval of the placement of a right in the bank, and to entitle an applicant who wishes to place a right in the bank to appeal any decision of the director from which the applicant is aggrieved. This is not the department's interpretation of the statutes.

The department's reading of the statutory scheme is that I.C. § 42-1762 authorizes the Water Resource Board to obtain water rights for placement in the bank, and that I.C. § 42-1763 provides for the leasing of water rights from the bank. The Water Supply Bank Rules and Regulations flesh out the procedures for operating the bank. Rule 3 governs the procurement of water by the bank, and Rule 4 governs the sale or lease of water from the bank.

The role of the director in the procurement of water by the bank, as provided in Rule 3,3, is to receive and review the application for completeness and to make such further review as necessary to adequately brief the Board on the merits of the proposed transaction. Whether the water right is accepted into the bank is a matter within the discretion of the Board if the Board determines that the criteria of Rule 3,5 are satisfied. Neither the statute nor the rules provide for a right of appeal if the Board decides not to accept a water right into the bank.

The provisions of I.C. 42-1763 and 1766(2) referenced in your letter apply to the leasing of water from the water supply

MICROFILMED

Mr. Jeffrey Fereday
October 25, 1989
Page 2

bank. The director's approval is required for the lease of water from the water bank. The director's approval is the equivalent of the approval of a transfer under I.C. § 42-222. I.C. § 42-1766(2) provides for a right of appeal from the director's decision.

I hope this review of the department's reading of the water bank statutes will be helpful to you.

Sincerely,



NORMAN C. YOUNG
Administrator
Resource Administration Division

NCY:js

cc: Gene M. Gray
Roger D. Ling, Esq.
Kent W. Foster, Esq.

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MAR 14

8-89 IWRB Agenda
November 3, 1989
Page 2

- VIII. IWRB Water Supply Bank
 - A. Canyon View
- IX. Minimum Stream Flows
 - A. Status Report
 - B. IDWR Hearings
- X. Director's Report
- XI. Items Board Members May Wish to Present

November 2, 1989 The IWRB will meet in a work session, beginning at 9:00 a.m., in the 2nd Floor Conference Room at the Idaho Department of Water Resources, 1301 North Orchard, Boise, Idaho

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MAR 4 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

Glen Saxton

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

NOTICE OF MEETING AND AGENDA

FOR

Meeting No. 8-89 of the Idaho Water Resource Board

November 3, 1989

November 3, 1989 - 8:30 a.m.

Board Convenes at the Idaho Department of
Water Resources, 2nd Floor Conference Room,
1301 N. Orchard, Boise, Idaho.

A G E N D A

- I. Roll Call
- II. Approval of 7-89 Minutes of September 15, 1989 Board Meeting
- III. Public Comment - Board Will Allocate a Period of Time (Not to Exceed 30 Minutes) for the Public to Address the Board on Subjects Not Specifically Shown as an Agenda Item
- IV. Petitions for Exemption
 - A. Island Park Project
 - B. Montour Wildlife Area Project
 - C. Malad Hi-Drop Hydropower Project
 - D. Boulder Rapids Hydropower Project
- V. Petition for Designation of Boise River Segments as Interim Protected Rivers
- VI. Basin and River Basin Planning Activities
 - A. Status Report
 - B. Study Schedule
 - C. Galloway Project
 - D. Dworshak Hydropower Project
 - E. Proposed Gas Pipeline - Pacific Gas Transmission Company
- VII. IWRB Financial Program
 - A. Projection of Loan Repayments
 - B. Funding of Dworshak Hydropower Projects Design
 - C. City of Cascade - Request for an Extension
 - D. Kidd Island Bay Reclamation Project, Inc. - Request for an Extension
 - E. Trow Creek Water Association - Request for an Extension

- OVER -

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MAR 14 1991

LAW OFFICES
GIVENS, PURSLEY, WEBB & HUNTLEY

SUITE 200, PARK PLACE
277 NO. 6TH STREET
POST OFFICE BOX 2720
BOISE, IDAHO 83701

TELEPHONE
(208) 342-6571

REBECCA W. ARNOLD
ELEANORE S. BAXENDALE*
CHRISTOPHER J. BEESON
JEFFREY C. FEREDAY
RAYMOND D. GIVENS
JAMES D. HANSEN
JUDITH K. HOLCOMBE
ROBERT C. HUNTLEY, JR.
KENNETH R. MCCLURE
L. EDWARD MILLER
PATRICK J. MILLER
TERRY L. MYERS
STEVEN L. OLSEN
KENNETH L. PURSLEY
MICHAEL T. SPINK
CONLEY WARD
JAY L. WEBB

LISTED ALPHABETICALLY
*ALSO ADMITTED IN OREGON

RECEIVED

TELECOPIER
(208) 343-9492
(208) 342-8920

OCT 20 1989

October 19, 1989

Department of Water Resources

Mr. Gene M. Gray, Chairman
Idaho Water Resource Board
Statehouse Mail
Boise, Idaho 83720

Re: Water Bank Application of Canyon View Irrigation Company

Dear Gene:

We represent Canyon View Irrigation Company with regard to certain water rights matters. As you know, on April 27, 1988, Canyon View filed an application with the Idaho Water Resource Board to place three of these rights -- Snake River natural flow right nos. 01-0023 and 01-0297 and Blackfoot River natural flow right no. 27-0004 -- in the water bank which the Board is entitled to operate pursuant to Idaho Code §§ 42-1761 - 1766. For various reasons, including Canyon View's request that the matter be held in abeyance until the Attorney General had offered an opinion on a forfeiture matter, the Board has not yet acted on the application. In his letter of October 4, 1989, Norm Young of the Idaho Department of Water Resources indicated that the application for the 1989 season now has lapsed since it was for only one year. This is Canyon View's notice that it intends to file an application to place these natural flow rights in the water bank for the 1990 irrigation season. Canyon View would like to have this matter considered at the November 3, 1989 meeting of the Board, if possible.

We understand that, in connection with its consideration of this application, we may need to file a new application form, and that the Board may request additional information about the rights. If the Board does need additional information, we request a work session with the Department staff to set forth a specific list of items where more information is needed. Such a session could help both the Department and Canyon View to determine where the information could best be obtained, and to decide whether other entities, such as the seller of the rights, should be brought into the process to provide some of this data. Please let us now as soon as possible whether this is an acceptable approach.

We interpret two provisions of the water bank statute, I.C. §§ 42-1763 and 1766(2), as requiring the Department Director's approval of the placement of a right in the bank pursuant to lease or rental, and also as entitling an applicant who wishes to place a right in the bank to appeal

MICROFILMED

MAR 14 1991

Mr. Gene M. Gray
October 19, 1989
page 2

any decision of the Director -- such as the rejection of the application or the imposition of terms and conditions -- about which the applicant feels aggrieved. However, the Board's regulations are not clear on this point. We would appreciate your informing us immediately if this is not the Board's interpretation of the statute.

Thank you for your attention to this, Gene.

Sincerely,

Jeff C. Fereday

Jeffrey C. Fereday

JCF/jf

cc: Mr. Norman C. Young
Canyon View Irrigation Company Board
Roger D. Ling, Esq.
Kent W. Foster, Esq.

MICROFILMED

MAR 14 1990

MEMORANDUM

To: Files 01-0023, 01-0297 and 27-0004

From: L. Glen Saxton *LS*

RE: SUMMARY CANYON VIEW IRRIGATION COMPANY WATER BANK
REQUEST

Date: October 31, 1989

The following is a brief summary of activity in connection with Canyon View Irrigation Company's 1988 request to place the above referenced water rights in the Water Supply Bank.

- April 27, 1988 - Canyon View Irrigation Company submitted an application to sell or lease water rights to the water supply bank operated by the Idaho Water Resource Board.
- May 24, 1988 Board meeting - The Board raised the following questions and opted to defer action on the application until the next Board meeting.
 1. Is there sufficient evidence that the water rights have not been lost through forfeiture or abandonment?
 2. Is there sufficient information demonstrating relative availability of water in the source to fill the water right, particularly 01-0297?
 3. Is there a need for the water in the water supply bank?

In addition, the Board questioned whether allowing the water out of Water District 1 is in the public interest.

- July 1, 1988 Board meeting - Canyon View requested the Board table the application until a future meeting of the Board.
- October 21, 1988 Board meeting - The Attorney General's office responded to two (2) questions concerning operation of the water bank as follows:
 1. The filing of an application for transfer pursuant to Section 42-222, Idaho Code does not toll the time limit for forfeiture of a water right. Action must be taken upon the application to toll the period.
 2. Because of the inconsistencies in statute, a conclusion could not be made on whether a water right placed in the

MICROFILMED

MAR 14

water supply bank would toll the running of a statutory period.

- October 4, 1989 - Dept corresponded with Canyon View and summarized the status of the pending application to place the rights in the water supply bank. i.e. that the questions posed by the Board in May 1988 have not yet been answered, that the Board has delayed action to allow Canyon View to evaluate the AG's opinion and that the application should be reviewed for needed changes if Canyon View's intent is to have it's application further considered by the Board.
- October 19, 1989 - Canyon View asked to have the application reconsidered at the November 3, 1989 Board meeting. Canyon View suggested that the Board's decision to not accept a right into the water supply bank is appealable.
- October 25, 1989 - Department responded to Canyon View advising that the Board's decision to not accept a right into the bank does not appear to be appealable. Dept's letter also advised that the Board's prior questions raised in May 1988 have not been answered.
- October 31, 1989 - In a phone conversation today with Jeff Fereday representing Canyon View, Fereday advised he would like the application of Canyon View to be dropped from the Board's November 3, 1989 meeting agenda. He plans to compile more facts from the sellers and to have the matter considered at some future Board meeting. Fereday will send a letter confirming his intentions.

RECEIVED

MAR 14 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

October 4, 1989

Elbert G. Davis, President/Manager
Canyon View Irrigation Company
P.O. Box 411
Twin Falls, Idaho 83303

Re: Water Bank Request

Dear Mr. Davis:

As a follow-up to your letter of September 13, 1989, I have reviewed the department and board files to determine the status of the request to place certain natural flow water rights in the board's water bank. Enclosed are copies of excerpts from the minutes of three board meetings at which the matter was mentioned or considered.

The minutes of the May 24, 1988, meeting summarize the concerns that prevented the board from taking action at that meeting. It seems to me that these are still the matters that will need to be addressed before the board will respond to your request.

At the board's request, an Attorney General's opinion was developed to respond to several questions. The excerpts from the October 21, 1988, meeting summarizes the response received from the Attorney General.

Prior to the October 21, 1988, meeting, you asked for additional time to evaluate the A.G.'s opinion. A particular consideration that we discussed at the time relates to the decision/appeal processes available under the water bank provisions. The board's statutes and rules do not provide for a formal decision record to be developed or an appeal process. This could be important to you if the board decided not to take the rights into the bank because of a concern for validity of the rights. There may be other administrative or judicial actions that you could pursue to allow these issues to be addressed, formally. The board has been delaying action on the water bank request to give your legal counsel an opportunity to advise you on these matters.

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Elbert G. Davis
Page 2
October 4, 1989

The next board meeting is scheduled for Boise on November 3, 1989. If you want the request as an agenda item for that meeting please advise me. I note that the application was for only one irrigation season which has now passed. If you continue your request, please review the water bank application for any needed revisions.

Sincerely yours,



NORMAN C. YOUNG
Administrator

NCY:dc
enclosures

cc: Board members

RECORDED

MAR 14 1991

package. If possible, the emergency designation procedures will be used. The Board chooses to prohibit all activities listed in Subsection 42-1734(a)(5), and the Board will retain the option to change or prohibit the activities listed. (2) Continue to develop rules and regulations for the new legislation, including further interim designation, a process considering exemptions from protected activities and procedures for actual adoption of comprehensive plans. The intent will be to have draft rules for the July meeting. (3) Develop a data base for Board's immediate use in making decisions on planning activities.

The next Board meeting will be held June 30-July 1 in Boise to put in place HR 780 work activities.

Agenda Item No. 7. Study Negotiations - Under PL100-216 (HR 519)

Wayne T. Haas, Administrator, Resources Analysis Division, provided to the Board a draft agreement of the negotiating parties to implement the study provisions under PL100-216. R. Keith Higginson, Director, explained the Governor requested he represent the state in the negotiations with the two federal fishery agencies and Idaho Power Company. The study negotiations commenced in March upon the signing of the FERC order directing the studies. If a study agreement is not signed by May 24, FERC will issue an order directing the studies. The state felt the purpose of the negotiations was to reach a study agreement on the effects of the Swan Falls Agreement on fish and wildlife resources in the Snake River reach from Milner Dam downstream to the confluence of the Columbia River. Initially the principals were in agreement, but it became apparent the federal agencies wanted to broaden the scope of the investigations to include a means of providing a water supply to satisfy the water budget flows provided by the Northwest Power Planning Council (NPPC), investigate above Milner Dam the unallocated and uncontracted storage space available to provide for flush flows, and conduct investigations to assist the federal reserved rights in its claims in the Snake River Basin Adjudication. Because the scope was broaden, the Governor sent a letter withdrawing the state from the principal negotiating parties, stating Idaho will not be bound by the parties' decisions. The state is willing to cooperate and participate in the studies to the extent possible, but will not participate in the funding (approximately three and a half million dollars). A copy of the final agreement between the two federal fishery agencies and Idaho Power Company will be filed with FERC in Washington. Department staff will distribute a copy of the final agreement to the Board.

Agenda Item No. 8. Water Supply Bank

- a. Letter From Canyon View Irrigation Company
- b. Review W.D. #01 Rules and Regulations
- c. Proposed Rules and Regulations for W.D. #63

a. Letter From Canyon View Irrigation Company. Norman C. Young, Administrator, Resource Administration Division, reported on April 27, 1988 Canyon View Irrigation Company submitted an application to sell

or lease to the water supply bank three of its water rights (01-0023, 77.9 cfs from Snake River; 01-0297, 230 cfs from Snake River and 27-0004, 2.66 cfs from Blackfoot River). In accordance with the Board's Rules and Regulations on the Water Supply Bank, Rule 3 states the criteria for bringing water into the bank and Rule 4 describes the criteria for disbursing water. Tom Schafer, Canyon View Irrigation Company, explained the company acquired water rights to develop lands in the Bruneau Plateau near Castleford. The project is such that it will not be developed at this time. The water rights for storage in upstream reservoirs have for several years been placed in Water District 01 water pool. This spring the company's board of directors voted to place its natural flow rights into the state's water bank given the short water year.

Gene M. Gray, Chairman, felt several questions remain unanswered dealing with Rule 3.2 (3 & 4) of the Water Supply Bank with regard to the company's request to place the natural flow rights into the state water bank. Questions relate to: (1) Is there sufficient evidence that the water rights have not been lost through forfeiture or abandonment (especially #27-0004), (2) Is there sufficient information demonstrating relative availability of water in the source to fill the water right, particularly #01-0297, and (3) Is there a need for the water in the water bank? Chairman Gray requested an Attorney General's opinion to answer the questions. Dave Rydalch, Secretary, felt the water rights should not be leased until they are found to be valid and that it would not be in the local public interest to allow the water out of Water District 01.

F. Dave Rydalch, Secretary, moved the Board postpone its decision on Canyon View Irrigation Company's request to place its water rights in a state water bank until the next meeting to allow for an Attorney General's opinion. J. D. Williams, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, 0 Nays, 1 Absent.

Ron Carlson, Watermaster for Water District 01, stated philosophically there are water users who need or can use the water. One of the problems for changing natural flow rights is the impact on other water users. Changes in the location of the natural flow may significantly impact other people in the area to which the water is being transferred.

b. Review W.D. #01 Rules and Regulations. Norman C. Young, Administrator, Resource Administration Division, explained Water District 01 has operated successfully a local water committee under the rules and regulations ratified by the Board. There have been some changes in the rules over the years, and the Water District is requesting the Board review and ratify the rules again. Ron Carlson, Watermaster for Water District 01, explained the changes from previous rules are primarily typing the legal framework, structure, and substantial changes in format starting with a statement of purpose and definition of terms. Changes include preferential treatment from

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July 1, 1988

Motion passed by voice vote 6 Ayes, 0 Nays, Brooks, Absent, Lanting, Absent.

J. D. Williams, Member, moved Board adoption of a resolution (ATTACHMENT 5) for designation of interim protected rivers in certain stretches of the Priest, South Fork of the Boise, Snake, Henry's Fork and Payette rivers and identified prohibitions on the river. Richard W. Wagner, Vice Chairman, seconded the motion.

Motion passed by voice vote: 6 Ayes, 0 Nays, 2 Absent.

Frank Sherman, department staff, mentioned that FERC has been informed of the state's legislation H 780 and the interim protected status of the streams the Board designated today. Staff will make revisions to the emergency rules as discussed in the Board work session and requested Board direction for administrative procedure to the rules.

J. D. Williams, Member, moved to direct staff of the department finalize the draft procedural rules for implementation of the Board's new comprehensive plan authorities, and that staff provide copies to the Legislative Council and proceed to arrange public hearings on these draft rules. F. Dave Rydalch, Secretary, seconded the motion.

Motion passed by voice vote: 6 Ayes, 0 Nays, 2 Absent.

Agenda Item No. 7. Request From Canyon View Irrigation Company to Place Water in the Water Supply Bank

Wayne T. Haas, Administrator, Resources Analysis Division, commented a letter was received from Canyon View Irrigation Company requesting the Board table this item until a future meeting.

Agenda Item No. 9. Status Report on Public Hearings on Rules and Regulations for Well Construction and Well Drillers Licenses

Norman C. Young, Administrator, Resource Administration Division, reminded the Board in August, 1987 the Board authorized staff to commence review of existing rules on well construction standards and well driller licenses because of the extensive changes made by the legislature to the groundwater statutes, particularly the inclusion of classification of low-temperature geothermal resources. Staff has prepared draft rules, placed public notices in newspapers throughout the state, and held public hearings in Idaho Falls, Twin Falls, Boise and Coeur d'Alene. Suggested changes have been for better protection for perched aquifers and require wells that are drilled for domestic purposes meet all the requirements for construction and location of the well of Department of Health & Welfare and the health districts. The hearing record remains open until July 8 for written comments.

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UNFILED

MAR 14 1989

two people from Dept. of Fish and Game and two people in the audience. No objection was stated to the application. The Board requests the department proceed with the administrative process for the minimum streamflow application on Hayden Creek.

On May 13, 1988 the Gooding County Commissioners requested the Board file a minimum streamflow application on Crystal Springs for 126 cfs, the entire flow. The request was held until now pending a negotiated settlement between Department of Parks and Recreation, Department of Fish and Game and the Army Corps of Engineers on the diversion at Crystal Springs.

F. Dave Rydalch, Secretary and minimum streamflow chairman, moved the Board file an application for a minimum streamflow at Crystal Springs for the entire flow of 126 cfs and hold the Board's information meeting after the Director has issued a decision on the pending minimum streamflow at Crystal Springs. Clarence Parr, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, 0 Nays, 1 Absent.

Agenda Item No. 9. Drought Report

- a. Water Distribution Problems
- b. Weather Modification Programs

a. Water Distribution Problems. Wayne T. Haas, Administrator, Resources Analysis Division, discussed the Idaho Water Supply Situation Report (ATTACHMENT 8). Precipitation was below average over the state except in the Panhandle basins, streamflows are low and the reservoirs are much below average.

b. Weather Modification Programs. Mr. Haas advised the Board the department requested information from various firms on the types and costs of programs available for weather modification. The state does not have the money available to implement a program but will make the information available to public and private interest groups.

Agenda Item No. 10. Request From Canyon View Irrigation Company to Place Water in the Water Supply Bank

Wayne T. Haas, Administrator, Resources Analysis Division, stated the Canyon View Irrigation Company has notified the department it does not wish the Board consider at this time its request to place water in the water supply bank. The company wishes to review and react to the recent opinion by the Attorney General on transfer of water to the water supply bank.

Clive Strong, Attorney General's Office, summarized the conclusion of the Attorney General's Office on two questions: (1) The filing of an application for transfer pursuant to Section 42-222 does not toll the time limit for a forfeiture of a water right. Action must be taken upon the application to toll the period, and (2) because of the

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inconsistencies in statute, a conclusion could not be made on whether a water right placed in the water supply bank would toll the running of a statutory period. The Attorney General recommended the department seek legislation to clarify the issue.

Agenda Item No. 11. Director's Report

R. Keith Higginson, Director, reported a former Board member and representative on the Western States Water Council, Herman J. McDevitt, passed away on August 23, 1988.

F. Dave Rydalch, Secretary, moved Board adoption of a resolution (ATTACHMENT 9) expressing sympathy at the passing of Herman J. McDevitt and unanimously resolved that the resolution be spread upon the minutes and copies sent to the family and law firm of McDevitt and Meyers. Kenneth E. Hungerford, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, 0 Nays, 1 Absent.

Mr. Higginson reported that Harry Nelson, a long time leader in the development of the Weiser River area and active participant in the development of the potential Galloway project, passed away on October 11, 1988.

Richard W. Wagner, Vice Chairman, moved Board adoption of a resolution (ATTACHMENT 10) expressing sympathy at the passing of Harry N. Nelson and unanimously resolved that the resolution be spread on the minutes and a copy be sent to the family. Wm. J. Lanting, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, 0 Nays, 1 Absent.

The department's 1990 budget request has been submitted with a supplemental request on behalf of the Board for two million dollars to be placed in the Water Development Account.

During the Association of Western State Engineers meeting in September in Coeur d' Alene, Don Clarke, legal advisor to Chairman Hesse, Federal Energy Regulatory Commission (FERC), made several startling statements. FERC is suggesting states protect their water rights by becoming involved in FERC's comprehensive planning program and submitting state water plans for consideration, and approval, and for authorizing water projects. FERC will decide what weight to give the state plan submitted, and therefore the state is in their forum to make the rules. Further, if an applicant proposes the use of water upstream from a licensed FERC project, FERC will decide if states should be permitted to issue the permits to allow those uses. Mr. Higginson was directed as President of the association to draft a letter to the congressional delegation of the western states to call their attention to the current situation between the states and FERC over the regulation of water use. The draft letter will have the signatures of the chief water rights administrative officer of the 19

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Area Code 208
734-5380

Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company

TWIN FALLS, ID 83303

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SEP 14 1989

Department of Water Resources

September 13, 1989

Mr. Norm C. Young
Administrator
Resources Administration Div.
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83720

RE: Canyon View Water Bank Application

Dear Norm:

As you will recall, an application to place our natural flow water rights in the State Water Bank was filed in April 1988. Further, the matter was placed on hold after we received the Attorney General's opinion on the status of our water.

We are now ready to proceed with the application and would like to hear from you as to what the next step is. Please let us know if our application will be placed on an upcoming Water Resource Board Agenda, and what will be required of us at that time.

Sincerely,



Elbert G. Davis
President/Manager

EGD:krb
PC: Jeff Fereday
Bruce Mecham

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01-0023
✓ 01-0297
01-2068
01-2064
27-0004

December 5, 1988

Elbert G. Davis, President/Manager
Canyon View Irrigation Company
P. O. Box 411
Twin Falls, ID 83303

Dear Mr. Davis:

Re: Canyon View Irrigation Co. Transfer of Water Rights

Enclosed is a summary of the April 29, 1987 conference that was held in Twin Falls. This copy is for your information. As previously, discussed, there was no tape of the conference and this memorandum is based simply on my recollection of what occurred during our meeting.

Also enclosed is a copy of the roster of those who were in attendance at the conference.

If you have any further questions, please feel free to contact me.

Sincerely,

BOBBY D. FLEENOR
Chief, Resource Protection Bureau

Enclosures

c: Loren - S. Region
Norm - S.O.

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NOV 30 1988

MEMORANDUM

DATE: 29-Nov-1988

Department of Water Resources

FROM: Loren Holmes *LH*

TO: Bob Fleenor

SUBJECT: Follow up on Canyon View Transfer conference

The April 29, 1987 meeting was held as an informal conference so no taped record was made.

Canyon View entered on the record a report prepared by Tom Shafer, which summarizes Canyon View's actions in the matter up to the time of the conference. Canyon View also indicated that the possibility of selling the water rights was being explored, but that it was too soon to consider amending or withdrawing the transfer applications.

After some discussion, it became clear that the parties were not prepared to go ahead with a hearing in the near future and that Canyon View was uncertain about the future of the proposed irrigation project.

No written determination or follow-up was made after the conference and nothing has been added to the file since that date.

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RECEIVED

NOV 30 1988

MEMORANDUM

DATE: 29-Nov-1988

Department of Water Resources

FROM: Loren Holmes *LH*

TO: Bob Fleenor

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CANYON VIEW IRRIGATION COMPANY
Conference Room, State of Idaho, Department of Water Resources
Twin Falls, ID

April 29, 1987 - 1:00 p.m.

ROSTER OF ATTENDANCE

Meeting Officer Bob Fleenor

Assisted by Lorne Holmes

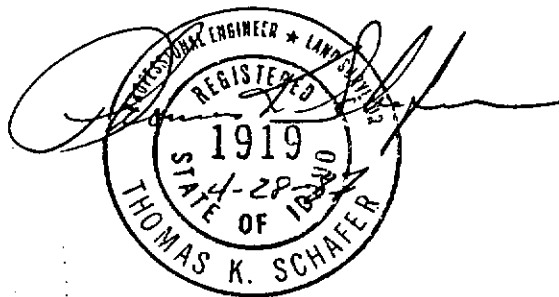
Name	Address	Representing
Alan Chiver	Fear Hall Agency	B.I.A.
Vincent Reid	901 Reid Road	Firth Idaho
W. R. Knight	R. 3 Box 121 Blackfoot	Dist 27
Elmer Herzinger	Rt 1 Box 327 Buhl	
Roger Clark	Box 1 Box 101 Buhl	
Ed Hall	Box 6 Firth Idaho	Dist #27
Arnold Schroeder	Box 315 Buhl Idaho	R. 1
Gabe F. Rudek	Box 104 Buhl, Ida.	SELF
Rudy Rudek	R. R. 1 Buhl Ida.	
Jack Esker	Box 326 Twin Falls, ID	Twin Falls Canal Co.
Robert W. Schaer	Box 223A Buhl Id	
Lowell Jagers	R#1 Buhl Id.	Self
Walt Schroeder	R#1 Buhl Ida.	
Lorne Rossmo	P.O. 1904 TWF	TWEL
Ellert Davis	P.O. Box 411 T.F.	Canyon View Irr. Co.
Jim W. Lute	P.O. Box 129 Idaho Falls	Lakeland & Canyon View
THOMAS K. SCHAFER	CHIZAN HILL P.O. Box 8748 Boise, ID	Canyon View

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REPORT OF
WATER RIGHTS AND PROJECT DEVELOPMENT
CURRENT STATUS

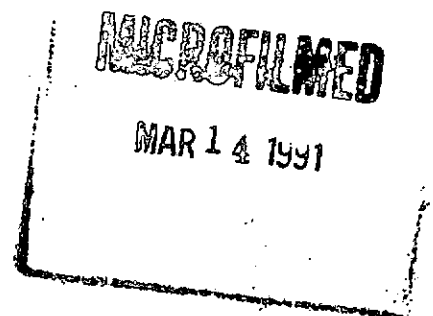
CANYON VIEW IRRIGATION COMPANY

P.O. Box 411
Twin Falls, Idaho



Prepared by
CH2M HILL

April 1987



AUTHORIZATION AND PURPOSE

By agreement dated August 14, 1986, the Board of Directors of Canyon View Irrigation Company (Canyon View) authorized CH2M HILL to prepare an application for submittal to the Idaho Department of Water Resources (IDWR) to extend the time for showing beneficial use of certain water rights of the company. Specifically, the work authorized by Canyon View was defined as follows:

- o Collect, review, supplement, and verify data pertinent to the water rights of Canyon View
- o Correlate application requirements and format with IDWR
- o Develop appropriate application and exhibits for approval by Canyon View and submittal to IDWR

During the development stages of the work as authorized, certain other factors evolved that changed the scope of services and the format of the final document to be produced by CH2M HILL. Those factors include the following:

- o A decision by Canyon View to explore the possibilities of selling its water rights
- o A decision by Canyon View to explore a change in nature, place, and period of use of its water rights
- o Continued delay in a Federal ratification of the Swan Falls Agreement and pendency of a general adjudication of the Snake River

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- o Meetings with the Director of IDWR concluding that a current status report of the Canyon View project would best serve the needs of IDWR for water rights evaluation purposes
- o Notification by IDWR of an administrative conference concerning the application by Canyon View to change the point of diversion and place of use of certain water rights

This report has been prepared to summarize the past activities of Canyon View to perfect a change in the point of diversion and place of use of its water rights, review the salient provisions of the Idaho Code relating to applications to IDWR made by Canyon View, and present information to support the on-going efforts of Canyon View to preserve and protect its water rights.

DESCRIPTION OF WATER RIGHTS

By contract dated November 18, 1975, Canyon View agreed to purchase certain water rights of the Rockford Canal Company (Rockford). The water rights purchased by Canyon View are briefly described as follows:

- o 77.9 cfs of the natural flow of the Snake River having a priority date of February 6, 1885, Decreed Right No. 01-0023
- o 14.3 cfs of the flood waters of the Snake River having a priority date of April 1, 1939, Decreed Right No. 01-0297

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- o 3,832.2 acre feet of storage space in Jackson Lake Reservoir, Wyoming Water Right
- o 9,522.4 acre feet of storage space in Palisades Reservoir, License No. 01-2068
- o 2,564.1425 acre feet of storage space in American Falls Reservoir, License No. 01-2064

Additionally, Canyon View has acquired certain waters of the Blackfoot River and holds an application for permit to appropriate water described as follows:

- o 2.66 cfs of the natural flow of the Blackfoot River having a priority date of June 1, 1885, a portion of Water Right No. 27-0004
- o Application for Permit No. 02-7100 for 399 cfs and/or 80,000 acre-feet per annum of the waters of the Snake River

APPLICATIONS AND REQUESTS

On July 23, 1976, Canyon View filed an application with IDWR to change the point of diversion and place of use of Water Right No.'s 01-0023, 01-0297, 01-2064 and 01-2068. The original application was amended on July 27, 1976, and October 14, 1976. On November 22, 1976, IDWR accepted Application No. 2024. The required notice was published in the Blackfoot News and the Times News in December, 1976. Based upon the records of IDWR, protests against granting of the application were received from the Twin Falls Canal Company and eight individual protestants. No further official action was taken by IDWR on Application No. 2024 until

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April, 1987. At that time, IDWR issued a notice scheduling a conference for the purpose of "formulating and clarifying issues and determining interests of the parties in the matter." The conference is scheduled for April 29, 1987.

On April 14, 1981, Canyon View filed an application with IDWR for extension of time to avoid forfeiture of a water right. That application was approved by IDWR conditioned upon the water under Water Right No.'s 01-0023 and 01-0297 being put to beneficial use by April 1, 1988.

On March 28, 1985, pursuant to a request by Canyon View, IDWR issued a letter concerning the current status of the Snake River Water Rights of Canyon View. In summary, IDWR reported the status as follows:

- o Application 02-7100 for 399 cfs with a priority date of July 18, 1972, was still pending action by the Director.
- o Decreed Right No.'s 01-0023 and 01-0297 had been granted an extension of time to avoid forfeiture until April 1, 1988.
- o Wyoming Water Right in Jackson Lake, License No. 01-2064 in American Falls Reservoir and License No. 01-2068 in Palisades Reservoir were currently rented on an annual basis through the Water District No. 1 storage rental pool.

It is assumed that rental of the storage rights through Water District No. 1 constitutes a beneficial use.

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NEGOTIATIONS AND LITIGATION

On April 16, 1976, an action entitled "Canyon View Irrigation Company v. Twin Falls Canal Company" was filed in the Fifth Judicial District of the State of Idaho. The purpose of the litigation was to determine if Canyon View could condemn a right-of-way to use the Twin Falls Canal Company (TFCC) system to transport its water from Milner Dam to Canyon View project lands. The suit was filed following extensive negotiations with TFCC which terminated when a contract for conveyance was rejected by the stockholders of TFCC. A decision favoring TFCC was returned on December 12, 1976. On November 26, 1980, the Idaho Supreme Court reversed the district court and found that Canyon View should have the right of condemnation.

On January 30, 1981, Canyon View filed an amended complaint in the Fifth Judicial District for condemnation as allowed by the Supreme Court decision. The last order filed in this case, designated as Civil No. 33112, was dated February 8, 1982, allowed Canyon View to enter upon lands of TFCC to acquire information necessary to determine what modifications were required to enlarge the TFCC system to carry Canyon View's water. Shortly after the February 8, 1982, order was entered, TFCC invited Canyon View, the United States on behalf of Salmon Falls Canal Company, and others interested in transporting water in the TFCC system to participate in a study to determine the modifications required and costs associated with an enlargement to carry the waters of TFCC and all interested parties in a single enlargement of the TFCC system. That study was completed in March, 1983. Since that time, TFCC has filed an application for an R&B Loan to finance improvements necessary to safely carry its water and the United States continues to evaluate alternatives. At this time, the TFCC R&B loan application is still pending and the general agricultural economy has reduced the

interests of other project participants. Civil Case No. 33112 remains pending and has been delayed in part by the Swan Falls issue.

PROJECT EXPENDITURES BY CANYON VIEW

Since initiation of its proposed irrigation project in 1971, Canyon View Irrigation Company has expended significant amounts of time, energy, and money towards development. Actual expenditures for legal expenses, engineering costs, land purchases, water rights payments, and related costs totalled \$1,019,884.79 through May, 1986. A summary of these costs appears in the Appendix of this report.

SUMMARY AND CONCLUSIONS

- o Section 42-222, I.C. provides the procedure under which a change in point of diversion, place of use or nature of use of water under established rights are to be perfected. Canyon View properly filed its application to change the point of diversion and place of use of Water Right No's. 01-0023, 01-0297, 01-2068, and 01-2064 as evidenced IDWR's acceptance of Canyon View's Application No. 2024 on November 22, 1976. IDWR properly followed the procedures contained in 42-222, I.C. when it published the required notice on December 2 and 9, 1976, and received protests against Canyon View's application. Section 42-222, I.C. provides that the Director shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions. The Director may also deny the proposed change. If approved by the Director, the applicant shall be authorized to make the changes

as approved. The applicant has 5 years to apply the water to beneficial use upon receipt of an approved application for change.

The Director has neither approved nor denied Application No. 2024. Canyon View has, therefore, been precluded from applying its water to beneficial use. Pursuant to 42-222, I.C., time to place the water right, as amended, cannot begin prior to approval of the change requested.

- o Section 42-204(1) provides, in part, that when an applicant is prevented from proceeding with his work by litigation of any nature which might bring his title to said water in question, IDWR, upon proper showing of evidence and being convinced that applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit. Clearly, litigation effecting Canyon View's ability to perfect title to its water coupled with the lack of approval or denial of its application for change of diversion and place of use are matters of record. Canyon View should, therefore, be entitled to at least 12 years from the date of final litigation and approval of its application for change to show beneficial use pursuant to 42-204(2). Section 42-204(3) permits the Director to allow additional time to demonstrate beneficial use upon proper showing by the applicant.
- o Sufficient precedence exists to conclude that inclusion of Decreed Right No's. 01-0023 and 01-0297 in the Idaho Water Resource Board's rental pool would qualify as a beneficial use pursuant to Idaho Code. This leasing arrangement should be applicable to Canyon View's Blackfoot River Water Right No. 27-0004.

- o Application for Permit No. 02-7100 for 399 cfs of the waters of the Snake River still pends before the Director. Ratification of the Swan Falls agreement would appear to be a condition precedent to any formal action by the Director. That ratification is still pending before FERC and may be the subject of subsequent litigation if approved by FERC. No formal action should be considered by Canyon View in this matter at this time.

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APPENDIX

CONTENTS

- o Application for Extension of Time to Avoid Forfeiture of a Water Right dated October 15, 1981
- o Letter from EDWR concerning status of Canyon View Water Rights dated March 28, 1985
- o Letter from Hepworth Nungesser, et al concerning status of litigation dated December 8, 1986
- o Schedule of Expenditures by Canyon View from December 1971 through May 23, 1986, 5 pages, undated



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

October 15, 1981

RE: Application for Extension of Time to Avoid Forfeiture
of a Water Right

Canyon View Irrigation Company
P.O. Box 411
Twin Falls, ID 83301

Gentlemen:

Enclosed herewith is a copy of your approved Application for Extension of Time to Avoid Forfeiture for Water Right Nos. 01-0023 and 01-0297. Be sure to note the condition of approval on the last page.

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

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:kw
Enclosure

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APPROVED

of a Water Right

Department of Water Resources

Section 42-2 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources Statehouse, Boise, Idaho, 83720, with the statutory fee of \$10.00 if the application involves 0.2 cfs or 20 acre feet or \$90.00 if in excess of these amounts.

1. Name of water right holder Canyon View Irrigation Company
Post office address P. O. Box 411, Twin Falls, ID 83301
2. The right was obtained or is evidenced by: See Exhibit "A" attached hereto
 - a. Decree to _____ in Case of _____
(Name)
vs. _____, Dated _____ in _____
(Name of Court)
Court, County of _____ Fully describe decree _____
 - b. License No. _____ issued by the Department of Water Resources.
 - c. Claim No. _____ on file with the Department of Water Resources.
3. Source of water Snake River tributary to _____
(Name of stream or source)
4. Date of priority of right See Exhibit "A"
5. Amount of water a. See Exhibit "A" c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for irrigation from April 1 to November 1
_____ from _____ to _____
_____ from _____ to _____
(Purpose) (Month-Day) (Month-Day)
7. Location of point of diversion is SE 1/4 NE 1/4 of Section 34
Township 1 S, Range 36 E, B.M. in Bingham County:
Additional points of diversion, if any None

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2S	33E	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
3S	33E	2	40	40	40	40	40	40	40	40	40	40							400
3S	33E	3				40			40		40	40	40	40	40	40	40	40	400
3S	33E	4													40				40
3S	33E	10	40	40	40	40	40	40	40	40	40	40	40		40	40	40	40	600
3S	33E	11			40	40				40	40				40				200
3S	33E	12							40	40	40	40	40		40	40			420
3S	33E	13		40	40		40	40	40	40	40	40	40	40	40	40	40	40	560
3S	33E	14													40	40			80
3S	33E	15	40	40	40	40	40			40	40	40	40	40	40	40	40	40	560
3S	33E	20			40	40					40	40							160
3S	33E	24	40	40	40	40	40	40											240
3S	33E	29	40	40	40		40	40	40	40	40	40	40				40	40	520
3S	34E	18					40	40	40	40	40	40	40						320

Total number of acres irrigated 5,040

RECORDED

9. Give last date when water was applied to beneficial use 10/15/77
Length of extension of time requested See attached Exhibit "B" years, or until 4/15/88
(Date)
10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use See Exhibit "B" attached hereto

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Hugo E. Meyer
(Signature of Applicant)

Subscribed and sworn to before me this 10th day of April, 1981.

Alvin Shannon
(Notary Public)

My commission expires Sept. 6, 1981

Residing at Bull, Idaho

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons.

That water under water rights 01-0023 and 01-0297 be put to beneficial use on or before April 1, 1988.

Witness my hand this 9th day of October, 1981.

L. Glen Saxton
L. GLEN SAXTON
Chief, Operations Bureau

For Department Use Only

Received by Jin Date 9/14/81 Time 8:00 AM Preliminary check by Jin
Fee \$ 50.00 Received by Jin Date 8-3-81 Publication prepared by klw
Published in Blackfoot News Dates 8/20 & 8/27/81
Publication approved by Jin Date 9/14/81 Protests filed by: _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for X Approval // Denial by Jin

MICROFILMED

EXHIBIT "A"

- c/1-0 23
- a. 77.9 cfs or 3,894.95 miner's inches of the Natural Flow of the Snake River having a priority date of February 6, 1895, being a portion of that right decreed to the American Falls Canal and Power Company under the terms of the Decree entered in the case of Rexburg Irrigation Company, et al, vs. Teton Irrigation Canal Company, et al, by Judge J. M. Stevens, judge of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, dated December 16, 1910. (Also known as "The Rexburg Decree.")
- b. 14.3 cfs or 716.7 miner's inches of the Flood Waters of the Snake River having a priority date of April 1, 1939, being a portion of that right decreed to the Aberdeen-Springfield Canal Company, in the case of Aberdeen-Springfield Canal Company et al, vs. Henry Eagle, et al, by Judge Willard C. Burton, judge of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Fremont, dated March 12, 1969, (Also known as the "Supplemental Decree.")
- 01 017
-

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MAR 14 1991

EXHIBIT "B"

9. Length of extension of time requested: Extension of an additional 5 years after expiration of the initial 5 year period is requested. Initial 5 year period will expire 10/14/82.
10. These water rights have been sold under contract of sale by Rockford Canal Co. to Canyon View Canal Co. Canyon View Canal Co. proposes to change the point of diversion to the Milner Dam in Twin Falls County, Idaho, and then transport the water to the main canal and Highline Canal system of the Twin Falls Canal Co. system to a point where the water will be placed in the Canyon View Canal System to be applied to a beneficial use in Twin Falls County, Idaho. The director of the Department of Water Resources already has on file a petition to change the point of diversion and place of use. The Twin Falls Canal Co. has resisted the plans of Canyon View Irrigation Co. to use a part of the Twin Falls Canal Co. canal system. Following unsuccessful attempts to negotiate with the Twin Falls Canal Co. for a right of way through its canal system, a declaratory judgment action was filed with the Twin Falls County District Court to determine the rights, if any, to condemn such a right of way through the Twin Falls Canal Co. system. The decision of the District Court was appealed to the Idaho Supreme Court, and only recently a decision was rendered by the Idaho Supreme Court granting unto Canyon View Irrigation Co. the right to institute condemnation proceedings to obtain a right of way through the Twin Falls Canal Co. system. Actions are now being taken to file a proceeding to condemn such a right of way.

As a result of the delays caused by the above litigation, it has been impossible for Canyon View Irrigation Co. to put this water to beneficial use. In the event Canyon View Irrigation Co. is successful in its litigation, a period of time will be required to complete construction of the irrigation system and to transport the water rights in question to the lands located in Twin Falls County, Idaho. It is also the applicant's understanding that the Idaho State Department of Water Resources has postponed taking action on the application of Canyon View Irrigation Co. to change the point of diversion and place of use of the above described water rights until such time as the condemnation proceeding with Twin Falls Canal Co. is completed. The delay occasioned by the court proceedings has been unavoidable and Canyon View Irrigation Co. asks for an additional 5 year period to complete all such litigation, to construct and improve the necessary canal system needed to transport the water to its lands in Twin Falls County, Idaho, and to complete the final action on its application to change point of diversion and place of use previously filed with the Department of Water Resources. The water in question was last used during the 1977 irrigation season, and accordingly the initial 5 year period will expire upon the end of the 1982 irrigation season. Accordingly, this request for extension asks that Canyon View Irrigation Co. be given until the commencement of the 1988 irrigation season to complete all the above steps needed to put the water to beneficial use and to avoid the forfeiture of the said water rights.

RECEIVED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

March 28, 1985

Tom Shafer
P. O. Box 283
Twin Falls, Idaho 83301

Dear Mr. Shafer:

The following is the current status of the Snake River water rights of the Canyon View Irrigation Company:

Application 02-7100 Amount- 399 cfs Priority: 7/18/1972
This application is still pending action by the Director.

If the application is assigned to a new applicant, or amended, it must be reviewed under Section 42-203 of the IDAHO CODE. The following criteria must be considered:

- 1) Will the proposed use reduce the quantity of water under existing water rights?
- 2) Is the water supply insufficient for the purpose intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the project?
- 5) Will the proposed use conflict with the local public interest?

Because there has been no development to date under this application, it would also be subject to rules imposed by the Swan Falls legislation package.

Decreed Right - 01-0023	77.9 cfs	2/6/1895
Decreed Right - 01-0297	14.3 cfs	4/1/1895

An extension of time to avoid forfeiture under Section 42-222 of IDAHO CODE has been granted until April 1, 1988 for the decreed rights.

MICROFILMED

MAD

License - 01-2064 2564.1425 Acre Ft 3/30/1921
American Falls storage

License - 01-2068 9522.4 Acre Ft 7/28/1939
Palisades storage

Wyoming Water Right 3832.2 Acre Ft
Jackson storage

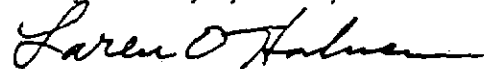
The above storage rights are currently rented on an annual basis through the Water District 01 storage rental pool.

A transfer of the decreed and licensed rights has been applied for. The rights can be assigned to a new owner and the transfer application amended to propose a different change in the rights. The following criteria must be considered on an application for transfer:

- 1) Are other water rights injured by the transfer?
- 2) Does the change constitute enlargement in the use of the original water right?
- 3) Does the change conflict with the local public interest?

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

Very truly yours,



LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

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MAR 14 1961

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DEC - 9 1986

CH. M. HILL
BOISE

LAW OFFICES

HEPWORTH, NUNGESTER, FELTON, AND LEZAMIZ, CHARTERED
BLICK BUILDING — 133 SHOSHONE STREET NORTH
Post Office Box 389

TWIN FALLS, IDAHO 83303-0389
TELEPHONE (208) 734-7510

A Professional Corporation

JOHN C. HEPWORTH
WM. L. NUNGESTER
MICHAEL H. FELTON
JOHN T. LEZAMIZ
D. BRENT MARTENS
JEFFREY E. ROLIG
JOHN C. HOHNHORST
J. CHARLES HEPWORTH
PENELOPE PARKER-KIMBER

COPY

BUHL OFFICE
Professional Center — 1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
Telephone (208) 543-4368

December 8, 1986

OUR FILE NUMBER

6820

Elbert G. Davis, President
Canyon View Irrigation Company
P.O. Box 411
Twin Falls, ID 83303-0411

RE: Canyon View v. Twin Falls Canal Company

Dear Mr. Davis:

This letter is in response to a request from Thomas Schafer for a chronological summary and current status of litigation initiated on behalf of Canyon View Irrigation Company to perfect a diversion and conveyance right in the Twin Falls Canal Company system. It is Mr. Schafer's intent to include the litigation information in a report to be submitted to the Idaho Department of Water Resources for the purpose of establishing the time remaining to reestablish beneficial use of water purchase from Rockford Canal Company.

A review of the court files reveal that the initial action entitled "Canyon View Irrigation Company v. Twin Falls Canal Company" was filed in the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls on April 16, 1976, as Case No. 28301. The purpose of the case was to determine whether or not Canyon View could condemn a right-of-way to use Twin Falls Canal Company's main canal to transport its water. This suit was filed after an extended period of negotiations with the Canal Company, including the effort of having a contract put together which was rejected by the stockholders.

On December 12, 1976, a decision in favor of the Twin Falls Company was returned by Judge Bellwood. This decision was then appealed to the Idaho Supreme Court. After briefing and oral argument, the Supreme Court in Canyon View Irrigation Company vs. Twin Falls Canal Company, et al., 101 Idaho 604, 519 P.2d 122 (Nov. 26, 1980), reversed the district court and found that Canyon View should have the right of condemnation.

The parties then again entered into negotiations to establish the rights granted Canyon View by the Supreme Court's decision. On January 30, 1981, Canyon View filed an amended complaint which was treated by the Twin Falls County Clerk as a

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Elbert G. Davis, President
December 8, 1986
Page Two

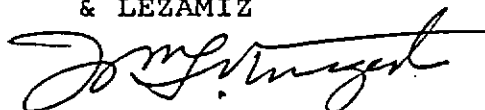
new action designated as Civil No. 33112. This action was for condemnation as allowed by the Supreme Court decision. The Twin Falls Canal Company stockholders had denied Canyon View the right to go upon the Canal Company's right-of-way to conduct surveys necessary to acquire the information to complete the study as to what modification of the canal were required in order to enlarge it to carry the Canyon View water. The last order filed in that case was dated February 8, 1982, which allowed Canyon View to go upon Twin Falls Canal Company's property to do the survey for its studies. Shortly after that order was entered, the Canal Company shifted its position and invited a study to be participated in not only by Twin Falls Canal Company and Canyon View, but also by Salmon Falls Canal Company, Artesian Irrigation Company, and other possible irrigators who could use such an enlarged ditch. Since that time studies have been in progress and Canyon View has contributed a substantial sum of money towards the engineering studies. Mr. Schafer has knowledge about these studies and their costs.

The progress of Civil No. 33112 has also been delayed by the famous Swan Falls case.

I hope this information is helpful to you.

Very truly yours,

HEPWORTH, NUNGESTER, FELTON
& LEZAMIZ



WM. L. NUNGESTER

WLN/pm

cc: Thomas K. Schafer

MICROFILMED

MAR 14 1987

Canyon View Irrigation Co.

Page - 1 -

Prepared By	Initials	Date
Approved By		

		1	2	3	4
		Purchase	Engineering	Legal	
		Land or	Expense -	ExDenses	O & M.
	Date	Water			
1	12/11/71	C.E. Broadway	39375		
2	4/24/72	Jack Barnett	74520		
3	6/27/72	Roger D. Ling		20000	
4	7/1/72	Dist. of Water Admin. \$914			
5	7/26/72	Valley Engineering	200000		
6	9/7/72	Riedesel & Strauber	50000		
7	9/8/72	Roger D. Ling		46972	
8	9/8/72	Valley Engineering	232185		
9	10/26/72	Al Kramer - option pymt	300000		
10	11/2/72	Valley Engineering Co.	222809		
11	2/1/73	Hepworth, Nungesser, Felton		31600	
12	2/1/73	Roger D. Ling		6562	
13	3/14/73	Valley Eng.	452922		
14	4/1/73	Al Kramer - Lease land	100000		
15	4/18/73	Hepworth		25000	
16	5/11/73	Al Kramer - Lease option	100000		
17	5/31/73	Valley Eng.	50000		
18	6/26/73	Al Kramer - Lease option	100000		
19	7/15/73	" " " "	100000		
20	8/14/73	" " " "	100000		
21	8/23/73	Valley Eng.	1195000		
22	8/23/73	Hansen & Assoc.	200000		
23	10/15/73	Al Kramer	100000		
24	10/31/73	Thayne Wiser - Reimb. for Kramer Lease	00000		
25	11/13/73	Al Kramer	100000		
26	11/13/73	Hansen & Assoc.	100000		
27	12/5/73	Al Kramer	100000		
28	12/7/73	Thane Wiser - Engineering	100000		
29	1/4/74	Al Kramer	100000		
30	1/8/74	Jack Barnett - Consulting	100000		
31	1/8/74	Hansen & Assoc.	100000		
32	2/1/74	Al Kramer	100000		
33	3/8/74	" "	100000		
34	3/26/74	Hansen & Assoc.	212650		
35	4/2/74	Jack Barnett	135391		
36	4/11/74	Al Kramer - farm purchase	1100000		
37	4/11/74	" "	3040000		
38	4/11/74	Valley Eng.	17866		
39	4/23/74	Al Kramer	30000		
40	4/30/74	Hepworth, Nungesser		77195	
Subtotals - page 1		5671000	25827118	1201329	

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Page - 2 -

		1	2	3	4
		Purchase Land or Water	Engineering Expense	Legal Expenses	O & M
1	7/18/74	Jack Barnett	16902		
2	11/15/74	Hansen & Assoc.	148930		
3	4/15/75	Alfred Kramer - principal	3124800		
4	4/15/75	Donald Kramer - prin.	1080000		
5	7/24/75	Hepworth		750	
6	8/1/75	Alfred Kramer - Lease	30000		
7	?	Holden, Holden, Kidwell, Hahn, Crapp			
8		(purchase water rights)	1517616		
9	12/5/75	Hepworth		15000	
10	12/15/75	Hepworth		30550	
11	?	Holden, Holden, etc. bat. of Rockford water right	~~1500000~~		
12	2/3/76	Hepworth		41500	
13	2/3/76	Valley Eng.	139275		
14	2/16/76	Holden, Holden, etc. purchase water right	2000000		
15	3/27/76	Valley Engineering	900000		
16	3/30/76	Hepworth		164875	
17	4/15/76	Al Kramer - land pymt.	2946240		
18	4/15/76	JUB Engineers	401907		
19	4/15/76	Valley Eng.	591456		
20	?	Holden, Holden, etc. bat. of Rockford water	1071616		
21	4/30/76	Hepworth		127200	
22	6/1/76	Valley Eng.	500000		
23	6/17/76	Valley Eng.	500000		
24	7/20/76	Al Kramer - Lease	30000		
25	8/6/76	Valley Eng.	715330		
26	8/30/76	Hepworth		500000	
27	9/6/76	JUB Eng.	750000		
28	?	Anderson & Kelly - Eng.			
29	?	Hepworth		357962	
30	12/14/76	Hepworth		63205	
31	12/14/76	Rockford Canal Co. ?	3964502		
32	2/9/77	Hepworth		120700	
33	3/25/77	Hepworth		10000	
34	4/8/77	J-U-B Eng. ?	1500000		
35	4/15/77	Farmers Nat'l - Kramer P&I pymt.	2232000		
36	?	Alfred Kramer - cash lease 80 ac.	30000		
37	11/8/77	Hepworth		97600	
38	12/1/77	Aberdeen - Springfield - const.			3481992
39	12/1/77	" " - O&M			175362
40	12/27/77	Holden Holden, etc. 2nd pymt. A-S water rights	3964502		
		Subtotal - page 2	20473660	6163800	11529342

8.34 (86004) - Credit

		1	2	3	4
		Purchase			
		Land or	Engineering	Legal	O & M
		Water	Expense	Expenses	
1	12/28/77	J-U-B Eng.	15000.00		
2	1/31/78	Hepworth		1087.00	
3	4/13/78	J-U-B	6713.56		
4	4/13/78	Hepworth		182.58	
5	4/15/78	Farmers - Kramer pymt. P&I	2232000		
6	6/13/78	Hepworth		1239.70	
7	9/15/78	J-U-B Eng.	317.04		
8	9/19/78	Hepworth ?		4912.53	
9	11/27/78	Holden, Holden, etc. - A.S. water rights	3964502		
10	11/27/78	Hepworth		8200	
11	12/26/78	Al Kramer - lease pymt.	30000		
12	1/5/79	Hepworth		11037.05	
13	2/3/79	Hepworth		6000	
14	3/27/79	"		25131.00	
15	4/15/79	Farmers Nat'l Bank - P&I	3421066		
16	7/3/79	Bureau of Reclamation - Const.			391890
17	11/26/79	Holden, Holden, etc. - Water right	3964502		
18	1/3/80	Al Kramer	60000		
19	1/24/80	Idaho Water & Power - for Rockford Canal Water - Const.			185816
20	2/14/80	Hepworth		65136	
21	4/3/80	Hepworth		17250	
22	5/5/80	"		8985	
23	10/10/80	Hepworth		42690	
24	11/8/80	"		11250	
25	11/18/80	Holden, etc. water right payment	3964502		
26	12/5/80	Hepworth		105250	
27	12/29/80	Water & Power - Const.			184496
28	1/8/81	Hepworth		50040	
29	1/6/81	Al Kramer - Sublease	30000		
30	2/9/81	Hepworth		97885	
31	4/9/81	Hepworth		341515	
32	6/4/81	McCart & Tuller - aerial photos	215000	80250	
33	7/7/81	"		248700	
34	8/6/81	"		101711	
35	9/3/81	"		137750	
36	10/20/81	McCart & Tuller	1000000		
37	11/17/81	Richard Kerbs - partial pymt. water purchase	6647160		
38	12/6/81	Holden, Kidwell, etc. Rockford water	3964502		
39	12/31/81	Hepworth		1183850	
40					
		Subtotal - page 3	22295834	3418260	762202

Page - 4 -

Prepared By	Initials	Date
Approved By		

		1	2	3	4
		Purchase Land or Water	Engineering Expense	Legal Expenses	O & M
1	1/14/82	Al Kramer	30000		
2	1/14/82	Hepworth		4524.0	
3	1/19/82	Bureau of Recl. - const.			18509.6
4	2/4/82	Hepworth		1936.39	
5	3/11/82	Hepworth		22250	
6	3/11/82	Richard Kerbs	7769.02		
7	4/20/82	Hepworth		25710	
8	5/17/82	McCarte & Tuller		11559.00	
9	5/17/82	Northern Testing Lab. - dam, rest., & canal		11539.26	
10	6/14/82	" " "		15217.01	
11	7/9/82	McCarte & Tuller		18850.00	
12	9/2/82	Northern Testing Lab. -		14083.97	
13	9/30/82	TFB & T. - TFC joint study		13513.50	
14	11/8/82	Aerial Mapping		19985.00	
15	11/8/82	Northern Testing		14079.28	
16	11/24/82	Rockford Canal Co. - Prin.	39645.02		
17	12/29/82	McCarte & Tuller		7175.00	
18	12/29/82	Aerial Mapping		7807.50	
19	1/12/83	Hepworth		8060	
20	1/12/83	Bureau of Recl.			18485.6
21	1/27/83	Al Kramer	30000		
22	3/1/83	TFB & T. - TFC joint study for enlargement		5515.9	
23	3/31/83	McCarte & Tuller		50000	
24	5/2/83	Aerial Mapping - joint w/ TFC		7807.50	
25	5/12/83	McCarte & Tuller		12175.00	
26	4/20/83	TFB & T. - joint study - enlargement		9100.91	
27	7/20/83	Hepworth		47000	
28	7/20/83	McCarte & Tuller		75000	
29	11/25/83	Rockford Canal Co. Prin. = 16,451.27	39645.02		
30	11/25/83	Hepworth		13262	
31	1/25/84	"		5979	
32	1/31/84	Bureau of Recl.			18449.6
33	2/16/84	Doerr & Trainor		67380	
34	2/16/84	Al Kramer	30000		
35	8/15/84	Doerr & Trainor		33930	
36	11/23/84	Rockford Canal Co.	39645.02		
37	1/11/85	Al Kramer	30000		
38	2/11/85	Bureau of Reclamation			18449.6
39	2/11/85	Hepworth		36540	
40	2/11/85	Doerr & Trainor		MAR 4 1985 18255	
		11270104198	11691185521	11800115	1173181944

Page - 5 -

Prepared By	Initials	Date
Approved By		

		1	2	3	4
		Purchase Land or Water	Engineering Expense	Legal Fees	O & M
1	7/19/85 Hepworth			47540	
2	10/3/85 Derr & Trainor			14705	
3	11/29/85 Rockford Canal Co.	3964502			
4	3/5/86 Al Kramer	30000			
5	5/9/86 Hepworth			65770	
6	5/23/86 Aberdeen - Springfield				184496
7	Subtotal - Pages	3994502	5	128015	184496
8					
9					
10	Grand Totals - Pgs. 1 - 5	65224404	29083330	5446749	2229996
11					
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MAR 14 1991

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10884 10884 10884



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

TO: Bob Fleenor
FROM: Norman C. Young *NCH*
DATE: November 29, 1988
RE: Elbert Davis Request for Letter

Please address this request promptly and provide me a copy of your response.

MICROFILMED

MAR 14 1991

Area Code 208
734-5380

Mailing Address:
P.O. Box 411

Twin Falls, ID 83303

Canyon View Irrigation Company

TWIN FALLS, ID 83303

RECEIVED

NOV 25 1988

Department of Water Resources

November 23, 1988

Mr. Norman C. Young
Administrator
Resources Administration Div.
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Re: Canyon View Water Bank Application

Dear Norm,

Per our telephone conversation of 11/17/88, and after discussing the matter with our attorney, we are asking you to withdraw our pending Water Bank Application from the upcoming December Water Resources Board Meeting agenda. We expect to be in a better position by your next meeting. Please keep us advised of the agenda updates and meeting notices.

We still have not received anything from Bob Fleenor relative to the April 1987 conference.

Sincerely,



Elbert G. Davis
President/Manager

EGD:mlh

MICROFILMED

MAR 14 1991

Area Code 208
734-5380

EH
Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company
TWIN FALLS, ID 83303

RECEIVED
OCT 26 1988

Department of Water Resources
October 13, 1988

pcy
Mr. Norman C. Young
Administrator
Resources Administration Div.
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Re: Canyon View Water Rights

Dear Norm:

Per our telephone conversation of 10/11/88 and in response to the Attorney General's letter of 10/4/88 relative to our pending State Water Bank application, we are asking that it be withdrawn from the Agenda of Meeting #7-88 of the Idaho Water Resource Board. We feel an inadequate amount of preparation time remains before the 10/21/88 meeting date in Post Falls.

Further, in accordance with Bob Fleenor's call yesterday, we expect a letter summarizing the 4/29/87 conference held here in Twin Falls.

Thanks for your cooperation.

Sincerely,

Elbert G. Davis

Elbert G. Davis, ARA
President/Manager

EGD:mlh

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OCT 05 1988

Department of Water Resources

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

ATTORNEY GENERAL OPINION NO. 88-4

TO: R. Keith Higginson, Director
Department of Water Resources
Statehouse Mail
Boise, ID 83720

Per Request for Attorney General's Opinion

QUESTIONS PRESENTED:

1. Does the filing of an application for change in point of diversion, place of use, period of use, or nature of use of a water right toll the running of the forfeiture period for nonuse of a water right established by Idaho Code § 42-222(2) (Supp. 1988)?

2. Does an application for assignment of a water right to the water supply bank and subsequent acceptance of the right into the bank toll the running of the forfeiture period for nonuse of a water right established by Idaho Code § 42-222(2) (Supp. 1988), or does Idaho Code § 42-1764 (Supp. 1988) require that the water right be subsequently rented out of the bank and beneficially used to prevent forfeiture?

CONCLUSIONS:

1. The filing of an application for change in point of diversion, place of use, period of use, or nature of use of a water right does not toll the running of the forfeiture period for nonuse of a water right established by Idaho Code § 42-222(2) (Supp. 1988).

2. There are two possible interpretations of Idaho Code § 42-1764 (Supp. 1988), which provides for the tolling of the forfeiture period for non-use of water placed in the water supply bank. On its face, section 42-1764 seems to require that a water right be accepted and subsequently rented out in order to toll the forfeiture provisions of section 42-222(2); however, when the

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R. Keith Higginson, Director
Department of Water Resources
October 4, 1988
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section is interpreted in light of the entire Water Supply Bank Act, it is possible to argue that the forfeiture period should be tolled whenever a water right is placed into the bank. Because of the ambiguity within the Act, it is not possible to predict which interpretation a court might adopt.

ANALYSIS:

Your letter of June 14, 1988, requests guidance on three questions concerning forfeiture of water rights. After reviewing the questions presented, we find that the issues raised in the first two questions subsume the third question. Further, your letter indicates that the questions, while general in nature, have arisen in reviewing the application of the Canyon View Irrigation Company to place natural flow water rights from the Snake River basin into the water supply bank. The policy of this office is to provide opinions only on questions of law; therefore, we have reformulated your first two questions to focus solely on issues of law. We express no opinion on the nature and extent of any water rights claimed by Canyon View Irrigation Company.

Question 1:

Idaho Code § 42-222(2) (Supp. 1988) provides, in part, as follows with respect to forfeiture of water rights:

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter....

Thus, failure to apply water to beneficial use over a five-year period will result in forfeiture of the water right. However, upon the filing of an application for extension of time to put water to beneficial use before the end of the five-year forfeiture period, the director of the department of water resources is authorized to extend the time for forfeiture for nonuse for a period not to exceed five additional years. Idaho Code § 42-222(2) (Supp. 1988).

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WATER RESOURCES
DIVISION

R. Keith Higginson, Director
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Forfeiture statutes reflect a well-settled rule of public policy "that the right to the use of the public water of the state can only be claimed where it is applied to a beneficial use in the manner required by law."¹ Graham v. Leek, 65 Idaho 279, 287, 144 P.2d 475, 479 (1943). By making nonuse of water for five consecutive years grounds for forfeiture under section 42-222(2), the Idaho Legislature intended to implement this policy. In light of this strong public policy, exceptions to the forfeiture statute should not be lightly inferred.

The language of section 42-222 does not manifest any intent by the legislature to toll the running of the forfeiture statute upon the filing of an application for change in point of diversion, place of use, period of use, or nature of use of a water right (hereinafter called "application for transfer"), and no Idaho case law has been found so interpreting the section. In the absence of some manifestation to the contrary, we assume the legislature intended the ordinary import of the words it used. Nicolaus v. Bodine, 92 Idaho 639, 641, 448 P.2d 645, 647 (1968). Furthermore, section 42-222 contains language which shows that when the Idaho Legislature wants to toll the running of the forfeiture statute, it will do so by an express provision. For example, through a 1988 amendment, the forfeiture statute is expressly tolled for "all water rights appurtenant to land contracted in a federal cropland set-aside program...." Idaho Code § 42-222(2) (Supp. 1988). Thus, since there is neither an express nor implied manifestation by the Idaho Legislature to toll the provisions concerning forfeiture for nonuse when an application for transfer is filed under section 42-222(1), we conclude that a filing of an application for transfer does not toll the running of the forfeiture period.²

¹Idaho Code § 42-222(2) is the successor of other less lenient forfeiture statutes. For example, in 1899 the Idaho Legislature required that the right to use water "be for some useful or beneficial purpose, and when the appropriator or his successor in interest cease[d] to use it for such purpose, the right cease[d]." Act approved Feb. 25, 1899, § 3, 1899 Idaho Sess. Laws 380. This early statute is illustrative of the policy underlying forfeiture.

²Although the forfeiture period may have run, an individual may be able to claim a defense to forfeiture at the end of the
(Footnote Continued)

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R. Keith Higginson, Director
Department of Water Resources
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Question 2:

The second question asks whether the forfeiture provisions of Idaho Code § 42-222(2) (Supp. 1988) are tolled by filing an application for assignment of a water right to the water supply bank and subsequent acceptance of the right into the bank or, conversely, whether Idaho Code § 42-1764 (Supp. 1988) requires that the water right be subsequently rented out of the bank and beneficially used to prevent forfeiture. An answer to this question requires an analysis of the statute creating the water supply bank.

Idaho Code §§ 42-1761 to 42-1766 (Supp. 1988) create the water supply bank. Section 42-1762 authorizes the water resource board to "purchase, lease, rent or otherwise obtain water rights to be credited to the water supply bank." This section further provides that "[t]he water rights may be retained in the water supply bank for a period as determined by the board, all under such provisions as are specified in the terms of the purchase or lease."

Idaho Code § 42-1763 (Supp. 1988) provides for the leasing or renting of "[d]eclared, licensed or permitted water rights" out of the water supply bank to end users. The same section also states that "[t]he terms and conditions of any such lease or rental must be approved by the director of the department of water resources."

Section 42-1764 limits the tolling of the forfeiture period to leases or rentals "acquired pursuant to section 42-1763" that have been "approved." Since section 42-1763 is limited to leases or rentals to end users and since the only approval specified in the Water Supply Bank Act concerns leases or rentals to end users pursuant to section 42-1763, it appears that the legislature intended to limit the tolling of the forfeiture period under section 42-1764 to those leases or rentals of water from the bank to an end user that have been approved by the director. This conclusion is further supported by the fact that section 42-1764 does not by its terms refer to section 42-1762, which is the

(Footnote Continued)

forfeiture time period. The Idaho courts have recognized several defenses to forfeiture. See Jenkins v. State, 103 Idaho 384, 389, 647 P.2d 1256, 1261 (1982).

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R. Keith Higginson, Director
Department of Water Resources
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provision authorizing the board to "purchase, lease, rent or otherwise obtain water rights" for the water supply bank.

Because of the grammatical structure of the second sentence of section 42-1764, however, the argument that the forfeiture period is only tolled when water committed to the water supply bank is withdrawn and put to use by a lessee is not without doubt. The sentence states: "Leases or rental of water rights acquired pursuant to section 42-1763, Idaho Code, shall not be subject to forfeiture under section 42-222(2), Idaho Code, provided that the rental agreements have been approved." This statement is a non sequitur. The subject of this sentence is the phrase "leases or rental." Section 42-222(2) does not affect leases or rentals, however; it affects water rights. Despite this grammatical problem, the specific reference back to section 42-1763 still lends support to the conclusion that the legislature intended to toll the forfeiture period only for approved leases from the water supply bank.

Another interpretation problem with section 42-1764 is that the last sentence of section 42-1763 is also the first sentence of section 42-1764. This repeat of a sentence in a successive section is not easily explained. Arguably, this redundancy supports the interpretation that the second sentence of section 42-1764 was intended to limit the tolling of the forfeiture period to those leases approved pursuant to section 42-1763. An interpretation that results in a redundancy is not favored, however. State v. Kozlowski, 143 Ariz. 137, 692 P.2d 316 (Ct. App. 1984). Thus, if the first sentence of 42-1764 is not treated as a redundancy, then it must have a different meaning from the last sentence of section 42-1763. The context of sections 42-1761 to 42-1764 suggests that it may refer to leases or rentals either to the water supply bank or from the water supply bank.

Because of these two ambiguities, a court could interpret section 42-1764 in light of apparent legislative purpose and public policy. State ex rel. Evans v. Click, 102 Idaho 443, 631 P.2d 614 (1981); Black v. Reynolds, 109 Idaho 277, 707 P.2d 388 (1985); 2A N. Singer, Sutherland Statutory Construction § 45.09 (4th ed. 1984). According to section 42-1761, the purposes of the water supply bank are to "make use of and obtain the highest duty for beneficial use from water, provide a source of adequate water supplies to benefit new and supplemental water uses, and provide a source of funding for improving water user facilities and efficiencies." These legislative policy considerations support a

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R. Keith Higginson, Director
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Page 6

broad interpretation of the Water Supply Bank Act that would result in a tolling of the forfeiture statute when a water right is "approved" by the board for placement into the water supply bank.

A water user would not want to place his water right in the water supply bank if he risked forfeiture by making the placement. Yet, the construction that the tolling of the forfeiture period occurs only upon approval of a lease from the bank could lead to this result in some situations. Thus, if the apparent statutory policy is to be fully achieved, the acceptance and retention of water rights by the water supply bank should be sufficient to toll the forfeiture period without requiring the subsequent lease or rental and use of the water by an end user.

In conclusion, there are two possible interpretations of section 42-1764. On its face, it seems to provide that the forfeiture provisions of section 42-222(2) are tolled only when a water right is accepted and subsequently rented out to another user, and then only if the director has approved the rental. On the other hand, an examination of the statutory language and of the purposes of the water supply bank seems to indicate that the forfeiture period should be tolled whenever a water right is placed into the water supply bank. Because both interpretations are plausible, we are unable to provide a definite answer to your question and suggest that you seek legislative clarification on this matter.

Authorities Considered:

1. Idaho Statutes

Idaho Code § 42-222 (Supp. 1988).
Idaho Code § 42-1761 through -1766 (Supp. 1988).
Act of Feb. 25, 1899, § 3, 1899 Idaho Sess. Laws 386.

2. Idaho Cases

Black v. Reynolds, 109 Idaho 277, 707 P.2d 388 (1985).
Graham v Leek, 65 Idaho 279, 287, 144 P.2d 475, 479 (1943).
Jenkins v. State, 103 Idaho 384, 389, 647 P.2d 1256, 1261 (1982).
Nicolaus v. Bodine, 92 Idaho 639, 641, 448 P.2d 645, 647 (1968).
State ex rel. Evans v. Click, 102 Idaho 443, 631 P.2d 614 (1981).

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R. Keith Higginson, Director
Department of Water Resources
October 4, 1988
Page 7

3. Other Cases

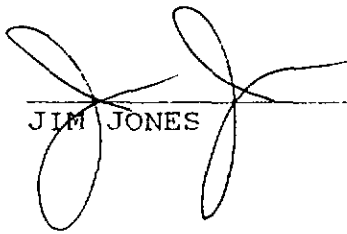
State v. Kozlowski, 143 Ariz. 137, 692 P.2d 316 (Ct. App.
1984).

4. Other Authorities

2A N. Singer, Sutherland, Statutory Construction § 45.09 (4th
ed. 1984).
Minutes of Idaho House of Representatives Resource and
Conservation Committee, February 9, 15, 19 and 23 (1979).
Minutes of Idaho Senate Resources and Environment Committee,
March 16 and 21 (1979).
Water Supply Bank Rules, IDAPA 37.D.1.-2,6. (October, 1980).

Dated this 4th day of October, 1988.

ATTORNEY GENERAL
State of Idaho


JIM JONES

ANALYSIS BY:

Clive J. Strong
Steve Strack
Phil Rassier

Deputy Attorneys General
Natural Resources Division

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MAR 14 1991

DRAFT

08-31-88

lgs

MEMORANDUM

To: Files 01-0023, 01-0297 and 27-0004
From: Norman C. Young
RE: APPLICATION TO WATER BANK - CANYON VIEW IRRIGATION CO.
Date:

This is a follow up to my May 20, 1988 memo on this matter. As a result of additional review of the questions and issues presented in the prior memo, department findings relative to the respective questions are shown below:

1. Is there physically any water to fill a 1939 water right in a drought year?

A 1939 water right is a "high water" right which essentially allows users to divert early in the season at a higher rate than their "primary right" would allow. A 1939 water right, considered by itself, however is not a dependable supply of water.

2. Evidence to show that the 2.66 cfs right on the Blackfoot River has not been forfeited through non-use.

There is no specific evidence to show that the right has been lost through non-use. While the watermaster records show that the amount diverted into the Aberdeen-Springfield canal is less than the decreed amount, this trend also applies to other canals in the area. Watermaster records allow for the full diversion of the water right into the Aberdeen-Springfield canal.

(Information also requested from the applicant).

3. On June 14, 1988, the department requested legal guidance from the Attorney General in connection with validity of the rights.

4. The number of acre feet available for lease under the rights likely will be based on the number of acre feet consumptively used (not diverted) on the original number of acres irrigated. Any determinable river losses associated with the conveyance of the water to a new point of diversion as related to

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the original point of diversion must also be considered.

(Information requested from the applicant).

5. Effect on other rights in the Snake River system of resuming the use of the rights.

6. Validity of all of the rights as shown by the records of Water District 01.

There is no specific evidence to show that any of the rights have been forfeited.

7. Conformity of acceptance of the rights into the water supply bank with the State Water Plan.

8. Is acceptance of the rights into the water supply bank in the local public interest.

RECOMMENDATIONS

- Acceptance of the rights into the water supply bank should be on a contingency basis only.

- Water under right no 01-0297 should not be leased from the bank as a primary water source for irrigation, since the right and the other similar 1939 priority rights decreed in the case were for the "excess" or "high" water of the Snake River. This "high" water is only generally available during the early spring run off and is insufficient for providing a full or primary water source.

GENERAL INFORMATION

The following is a brief chronology of events in connection with the water rights.

- Trans No. 2024 filed on July 23, 1976 in connection with right Nos 01-0023 and 01-0297.

- Trans No. 2578 filed on June 23, 1981 in connection with right No. 27-0004.

- April 16, 1976 - Canyon View Irrig. Co. v. Twin Falls Canal Co. filed to condemn a right-of-way to use the canal of the TFCC.

- Dec. 12, 1976 - decision issued by district court in favor of TFCC. The decision was appealed to the Idaho Supreme

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Court.

- Nov. 26, 1980 - Decision reversed by the Idaho Supreme Court.
- Jan. 30, 1981 - Canyon View filed an amended complaint which was treated as a new action as Civil No. 33112.
- Feb. 20, 1982 - Order issued allowing Canyon View to conduct surveys of the TFCC's canal. (In December 1986, Civil No. 33112 was still pending).
- October 26, 1986 - Schaffer requested that the administrative hearing on Transfer app. no. 2578 (27-0004) be combined with Transfer app. no. 2024 (01-0023 and 01-0297 and that the hearing be delayed until "questions concerning rehabilitation and participants in any enlargement (to the TFCC system) are resolved".
- March 18, 1987 - IDWR attempted to set up conference on April 1, 1987. Cancelled due to attorney scheduling conflicts.
- April 9, 1987 - IDWR attempted to set up a conference on April 29, 1987.

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MAR 14

Area Code 208
734-5380

Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company
TWIN FALLS, ID 83303

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MAR 22 1988

Department of Water Resources

June 20, 1988

Mr. L. Glen Saxton
Chief, Operations Bureau
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Re: Water Bank Application

Dear Mr. Saxton:

This is in response to your letter of 6/8/88 regarding our Water Bank Application. The matter has been referred to our attorney, John Hohnhorst of Hepworth, Nungester, Felton & Lezamiz, of 133 Shoshone Street North, here in Twin Falls, 83301. He will be responding directly to you as to the a), b), c) requirements in the letter.

Sincerely,

Elbert G. Davis

Elbert G. Davis
President/Manager

EGD:mlh

pc: John Hohnhorst

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State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 21, 1988

Elbert Davis
Canyon View Irrigation Company
P.O. Box 411
Twin Falls, ID

RE: APPLICATION TO WATER BANK - CANYON VIEW IRRIGATION CO. -
WATER RIGHTS 01-0023, 01-0297 AND 27-0004.

Dear Mr. Davis:

As a follow-up to my letter of June 8, 1988 and my telephone call to your office (734-5380) on June 20, 1988, there is another issue which you need to address in order for the department to be able to make a recommendation to the Board in connection with the above referenced application.

My letter of June 8, 1988 essentially requested evidence and/or information relative to the water rights during the last ten (10) years. Information and/or evidence is also needed to show that the rights were valid (not forfeited through non-use) at the time the rights were acquired. This evidence likely can be demonstrated by showing the history of the use of the rights.

Since the Board meeting is relatively close, I called your office in an effort to provide as much time as possible for you to respond to this additional matter.

Sincerely,


L. GLEN SAXTON
Chief, Operations Bureau

cc: Eastern Region
Tom Schafer

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State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 14, 1988

Honorable Jim Jones
Attorney General of Idaho
Statehouse
Boise, ID 83720

Dear Jim:

The Water Resource Board is authorized to operate a water supply bank by sections 42-1761 through 42-1766, Idaho Code, (the Act). The Board is directed to administer the water supply bank to obtain a high degree of beneficial use of water, provide water for new and supplemental uses, and provide funding for improving water user facilities and efficiencies.

The Act authorizes the Board to purchase, lease or otherwise obtain water rights to be credited to the water supply bank. The Water Supply Bank Rules and Regulations (the rules) require a person desiring to sell or lease water to the bank to file an application with the Director of the Department of Water Resources.

The rules direct that the prospective seller or lessor must provide the following to the Director with the completed application: evidence establishing that the right is decreed, licensed or permitted; proof of ownership of the right; evidence the right has not been lost through abandonment or forfeiture; evidence demonstrating the availability of water to fill the right; and written consent of any company, corporation or irrigation district controlling the right to use the water or the diversion works or system conveying the water.

The rules require the Director to review an application to place water in the water supply bank for completeness and brief the Board on the merits of the application.

The rules authorize the Board to approve an application upon finding: the applicant is the owner of the right; all necessary consents have been filed; that the evidence submitted does not show the right has been lost by abandonment or forfeiture; the reasonable value of the right; that acquisition of the right will have a beneficial effect and is not contrary to the State Water Plan; that the application is in the local public interest; the dates other equivalent applications were filed with the Board; that sufficient funds are available to buy or lease the water right or that the right should be acquired on a contingency basis with payment to be made only upon a subsequent sale or lease of

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Honorable Jim Jones
June 14, 1988
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the water from the water supply bank; and, any other factors determined appropriate by the Board.

Decreed, licensed or permitted water rights may be rented out by the Board from the water supply bank under terms and conditions approved by the Director. The rules require the Director to evaluate applications to rent water from the bank with respect to the purposes of the Act, injury to other water rights, enlargement of the right, beneficial use, adequacy of the water supply in the bank for the intended use, and the local public interest.

Section 42-1763, Idaho Code, authorizes the Director to refuse approval of an application to rent water from the water supply bank, or to partially approve an application for a lesser quantity of water or to approve an application upon conditions where: the proposed use would reduce the quantity of water available under other existing water rights; the water supply is insufficient for the purpose for which it is sought; the use of water would be enlarged beyond that authorized under the right to be rented; or the proposed use will conflict with the local public interest.

On April 25, 1988, Canyon View Irrigation Company submitted an application with the Director to place three natural flow water rights into the water supply bank. An application to transfer the point of diversion and place of use of the three water rights to allow use on the Bruneau Plateau near Castleford has been on file with the Department since 1976. The transfer application has not been processed due to past litigation regarding conveyance access through the Twin Falls Canal Company's main canal and because of lack of BLM approval of pending federal land applications under the Desert Land Act. The Department approved an extension of time to avoid loss of the rights by forfeiture for the period April 1, 1983 through April 1, 1988.

Because the Water Supply Bank Rules and Regulations require the Director and the Board to review and make a finding that the evidence submitted by an applicant to place water in the water supply bank does not show that the right has been lost by abandonment or by forfeiture pursuant to section 42-222(2), Idaho Code, your guidance is requested on the following questions:

1. Does the filing and pendency of an application for transfer filed under section 42-222(1), Idaho Code, stay the provisions concerning forfeiture for nonuse under section 42-222(2), Idaho Code, if the water is not being used either in accordance with the original right or as such right is proposed to be transferred?

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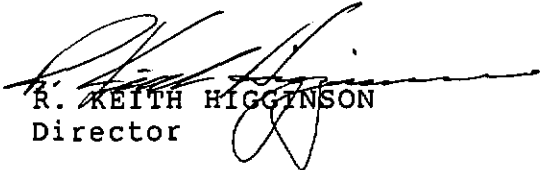
Honorable Jim Jones
June 14, 1988
Page 3

2. Does an application for assignment of a water right to the water supply bank and subsequent acceptance of the right into the bank stay the provisions of 42-222(2), Idaho Code, concerning forfeiture or must the right be subsequently rented out of the bank and beneficially used to prevent forfeiture?

3. Does failure to place a water right to beneficial use or to make application to place the water right into the water supply bank prior to expiration of a five year extension to avoid forfeiture granted pursuant to 42-222(2), Idaho Code, constitute an abandonment or forfeiture of the water right?

I will be happy to provide any additional background information you may need to address these questions. A timely response will be appreciated so that the Board may consider the pending applications at it July 1 meeting.

Sincerely,


R. KEITH HIGGINSON
Director

RKH:alw
cc: Board Members
Elbert Davis

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MAR 14 1991

Sent

MEMORANDUM

To: Ron Carlson
From: L. Glen Saxton *yes*
RE: APPLICATION TO WATER BANK - CANYON VIEW
Date: June 07, 1988

The information on the attached memo dated May 20, 1988 was presented to the Board at their last meeting. Canyon View apparently does not wish to withdraw their proposal to place the rights in the water bank. For this reason, the department needs to further address the issues raised in the May 20, 1988 memo at the next board meeting.

Can you provide information relative to issues 1, 5, 6, and any of the other issues for which you may have some information. The next Board meeting is scheduled July 1, 1988 in Boise. If you can provide the information early enough, it can be included in the board folder.

As an expanded version of issue 1, a comment on availability of water during a drought year for any of the three rights would be helpful.

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June 8, 1988

Canyon View Irrigation Company
P.O. Box 411
Twin Falls, ID

RE: APPLICATION TO WATER BANK - CANYON VIEW IRRIGATION CO.

Gentlemen:

At the next Board meeting scheduled for July 1, 1988 in Boise, the Idaho Water Resource Board (Board) likely will consider your pending request to place water right Nos. 01-0023, 01-0297 and 27-0004 in the Water Supply Bank.

In order for the Director to make a recommendation to the Board in connection with your request, there is additional information which you need to provide including the following:

a) Evidence to show that right 27-0004 on the Blackfoot River has not been forfeited through non-use. The records of the Blackfoot River watermaster may provide this information.

b) Evidence to show the number of acres originally irrigated under each of the rights.

c) Evidence to show whether the rights have been beneficially used during the 10 year period prior to April 1, 1988 or subsequent to this date.

We request that you provide the information in an expedited manner, in order that the department will have sufficient time to review your submittal and compile a recommendation for the Board's consideration prior to the July 1, 1988 meeting.

If you have questions, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

c: E. Region
Tom Schafer

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MAR 14 1988

Area Code 208
734-5380

Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company

TWIN FALLS, ID 83303

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JUN - 6 1988

Department of Water Resources

June 3, 1988

Mr. Norman C. Young
Administrator
Resources Administration Div.
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Dear Norm:

This is in response to our attendance of the May 24, 1988 Idaho Water Resources Board meeting held in Burley. On that date we verbally withdrew our application to lease the Canyon View natural flow water rights to the Water Resource Board's Water Supply Bank. On further consideration, this is to inform you of our intention to reinstate the application and seek the Board's approval.

We encourage the Attorney General's opinion as to the validity of the right. Please advise us of the time of your next meeting and how we may be of assistance to you.

Sincerely,

Elbert G. Davis

Elbert G. Davis, ARA
President

EGD/mlh

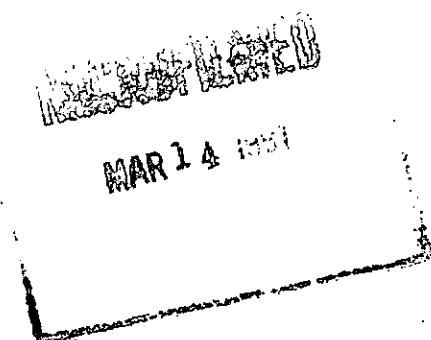
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Norman C. Young, Administrator, Resource Administration Division, reported on April 27, 1988 Canyon View Irrigation Company submitted an application to sell or lease to the water supply bank three of its water rights (01-0023, 77.9 cfs from Snake River; 01-0297, 230 cfs from Snake River and 27-0004, 2.66 cfs from Blackfoot River). In accordance with the Board's Rules and Regulations on the Water Supply Bank, Rule 3 states the criteria for bringing water into the bank and Rule 4 describes the criteria for disbursing water. Tom Schafer, Canyon View Irrigation Company, explained the company acquired water rights to develop lands in the Bruneau Plateau near Castleford. The project is such that it will not be developed at this time. The water rights for storage in upstream reservoirs have for several years been placed in Water District 01 water pool. This spring the company's board of directors voted to place its natural flow rights into the state's water bank given the short water year.

Gene M. Gray, Chairman, felt several questions remain unanswered dealing with Rule 3.2 (3 & 4) of the Water Supply Bank with regard to the company's request to place the natural flow rights into the state water bank. Questions relate to: (1) Is there sufficient evidence that the water rights have not been lost through forfeiture or abandonment (especially #27-0004), (2) Is there sufficient information demonstrating relative availability of water in the source to fill the water right, particularly #01-0297, and (3) Is there a need for the water in the water bank? Chairman Gray requested an Attorney General's opinion to answer the questions. Dave Rydalch, Secretary, felt the water rights should not be leased until they are found to be valid and that it would not be in the local public interest to allow the water out of Water District 01.

F. Dave Rydalch, Secretary, moved the Board postpone its decision on Canyon View Irrigation Company's request to place its water rights in a state water bank until the next meeting to allow for an Attorney General's opinion. J. D. Williams, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, 0 Nays, 1 Absent.



FROM

NCT

DATE

5/25/88

TO

CANYON VIEW WATER BANK APPLICATION

SUBJECT

Board action —

The Board deferred action on this filing until the July 1 mtg. I was told verbally that Canyon View would withdraw the application by letter. If a letter is not rec'd by 6/1/88, we need to follow-up, in detail, the legal and data questions of the 5/20/88 memo documenting staff review

SIGNATURE

RECEIVED

M E M O R A N D U M

TO: Files 01-0023, 01-0297 and 27-0004 ✓
FROM: Norman C. Young *NCY*
RE: Application to Water Bank - Canyon View Irrigation Co.
DATE: May 20, 1988

On April 27, 1988, Canyon View Irrigation Company submitted an application to sell or lease water rights to the water supply bank.

The application involves portions of the following water rights:

01-0023

Amount: 77.9 cfs
Source: Snake River
Priority: Feb. 6, 1895

01-0297

14.3 cp
Amount: 230 cfs
Source: Snake River
Priority: April 1, 1939

27-0004

Amount: 2.66 cfs
Source: Blackfoot River
Priority: June 1, 1885

Department staff has been reviewing the application to determine compliance with the existing statutes and the Water Bank Rules and Regulations in order to make a recommendation to the Board.

Initial questions and issues presently being reviewed by department staff include the following:

1. Is there physically any water to fill a 1939 water right in a drought year?

UNCLASSIFIED

Memorandum
Page 2
May 20, 1988

2. Applicant needs to provide evidence to show that the 2.66 cfs right on the Blackfoot River has not been forfeited through nonuse.

3. Legal question - Does acceptance of a right into the water bank stay the forfeiture of the right under the provisions of Sections 42-1763 and 42-1764, I.C. or does only the lease of the water from the water bank stay the forfeiture of the right? Preliminary review by the department's legal staff indicates that acceptance of a valid water right into the water supply bank should act to stay forfeiture of the right.

4. A determination must be made relative to water available for lease under the rights in terms of acre-feet rather than cfs.

5. The effect on the Snake River system and on other rights of resuming use of these rights after 10 years of nonuse must be assessed by the Water District 01 watermaster.

6. The Water District 01 watermaster needs to comment on the validity of all of the rights based on his records.

7. A determination must be made as required by Water Supply Bank Rule 3.5.5. that acquisition of the rights into the water supply bank will not be contrary to the State Water Plan.

8. A determination needs to be made in compliance with Water Supply Bank Rule 3.5.6. that the application to the water supply bank is in the local public interest.

9. If the rights are ultimately accepted into the water supply bank, the acceptance should be on a contingency basis only.

10. Acceptance into the bank should be conditioned that the acceptance does not have any effect upon future findings of the Snake River Adjudication relative to the validity of the rights.

After thorough review of these and other issues which may arise in the review of the application, department staff will prepare a recommendation for the Board's consideration.

RECEIVED
MAY 21 1988

MAR 14 1991

Area Code 208
734-5380

Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company
TWIN FALLS, ID 83303

RECEIVED

MAY 16 1988

Department of Water Resources

May 13, 1988

Mr. Norman C. Young
Administrator
Resources Administration Div.
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Dear Norm:

This is to acknowledge your letter of 5/12/88 relative to our application to place our natural flow water in the Water Supply Bank. I have marked 5/24/88 on the calender and Canyon View will be represented at the Board Meeting to answer questions as needed.

If something further is needed prior to the meeting, please give us a call.

Sincerely,

Elbert G. Davis

Elbert G. Davis, ARA
President

EGD/mlh

pc: Tom Schafer
Bruce Mecham

RECEIVED
MAR 14 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 12, 1988

Elbert G. Davis, ARA
President
Canyon View Irrigation Company
P. O. Box 411
Twin Falls, ID 83303

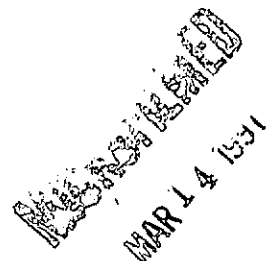
Dear Mr. Davis:

This letter acknowledges receipt of the application to lease Canyon View's natural flow water rights to the Water Resource Board's Water Supply Bank. The application is being reviewed by the department's staff for compliance with Water Supply Bank rules, and the application has been added to the Board's agenda for the May 24th meeting at Burley. A copy of the meeting agenda is enclosed for your convenience. If additional information is needed to fully brief the Board, department staff will be contacting you.

Sincerely,

NORMAN C. YOUNG
Administrator
Resource Administration Division

NCY:alw
Enc.



Area Code 208
734-5380

Mailing Address:
P.O. Box 411
Twin Falls, ID 83303

Canyon View Irrigation Company

TWIN FALLS, ID 83303

RECEIVED

APR 27 1988

Department of Water Resources

April 25, 1988

Mr. Norman C. Young
Administrator
Resources Administration Div.
Idaho Dept. of Water Resources
1301 North Orchard St.
Boise, ID 83720

Dear Norm:

Per our recent telephone conversation, enclosed is the Canyon View application to place its "live water" in the State Water Supply Bank for lease.

If something further is needed, please let us know. We look forward to hearing a favorable response.

Sincerely,

Elbert G. Davis

Elbert G. Davis, ARA
President

EGD/mlh
encl:

RECEIVED
MAR 14 1987

MEMORANDUM

TO: Files no. 01-0023, 01-0297, 01-2068, and 01-2064

FROM: Bob Fleenor

RE: SUMMARY OF APRIL 29, 1987 CONFERENCE

DATE: December 2, 1987

On April 29, 1987 an informal conference was held at the department of water resources office in Twin Falls to determine the status of the transfers filed by Canyon View Irrigation Company and the protests lodged against that transfer.

The current status of the Canyon View Irrigation Co. was discussed and a Report of Water Rights and Project Development Current Status was submitted by Thomas K. Schafer an engineer for Canyon View Irrigation Company. The applicant also discuss a potential sale of this water right and that the purchase transaction is almost complete.

The protestants that were present also were given the opportunity to discuss the status of their protests. During that discussion John rosholt, attorney for the protestant Twin Falls Canal Company, suggested that no further action be taken on the transfer request until the new owner of the water rights are determined. All of the parties present agreed the this would be the best course of action. Therefore, it was agreed that the hearing would be delayed until the matter of the potential sale of the water rights was resolved.

RECEIVED
MAR 14 1987

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST APPROVAL
OF TRANSFER NOS. 01-0023, 01-0297, 01-2068,
AND 01-2064 IN THE NAME OF CANYON VIEW
IRRIGATION COMPANY

NOTICE OF
CONFERENCE

On July 23, 1976 Canyon View Irrigation Company applied to the Department of Water Resources to change the Place of Use of Water Right Nos. 01-0023, 01-0297, 01-2068 and 01-2064.

Protests against granting of the application have been received from:

Theo F. Jagels
Mrs. Winnifred Schaer
Arnold Schroeder
Robert W. Schaer
Lynn Jagels

Twin Falls Canal Company
Lucille Schroeder
Mrs. Emil Jagels
Glen Gier

The Department has set a conference in this matter for 1:00 p.m. on Wednesday, April 29, 1987 at their office located at 2148 4th Avenue East, Twin Falls, ID to be combined with conference on related Applications for Transfer.

The conference is for the purpose of formulating and clarifying issues and determining the interests of the parties in the matter.

The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the IDAHO CODE and Adopted Rules of Practice and Procedure of the Department of Water Resources.

A copy of Rule 8 of the Rules of Practice and Procedure concerning conferences is attached.

DATED This 9 day of April, 1987.

MICROFILMED

Loren O. Holmes
LOREN O. HOLMES
Southern Region Supervisor



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Robert W. Schaer
Rt. 1, Box 176
Buhl, ID 83316

Re: Application for Transfer of Water Rights 01-0023, 01-0297,
01-2068, & 01-2064 by Canyon View Irrigation Company.

Dear Mr. Schaer:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Mrs Lucille Schroeder
Buhl, ID 83316

Re: Application for Transfer of Water Rights 01-0023, 01-0297,
01-2068, & 01-2064 by Canyon View Irrigation Company.

Dear Mrs. Schroeder:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Mr. Arnold Schroeder
Buhl, ID 83316

Re: Application for Transfer of Water Rights 01-0023, 01-0297,
01-2068, & 01-2064 by Canyon View Irrigation Co.

Dear Mr Schroeder:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

RECEIVED

MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Mrs. Winnifred Schaer
Rt. 1, Box 177
Buhl, ID 83316

Re: Application for Transfer of Water Rights 01-0023, 01-0297,
01-2068, & 01-2064 by Canyon View Irrigation Co.

Dear Mrs. Shaer:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 8330
(208) 734-3578

March 25, 1987

Theo F. Jagels
Rt. 1
Buhl, ID 83316

Re: Application for Transfer of Water Rights 01-0023, 01-0297,
01-2068, & 01-2064 by Canyon View Irrigation Co.

Dear Mr. Jagels:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

Please file
BDF

March 25, 1987

Canyon View Irrigation Co., Inc.
P.O. Box 411
Twin Falls, ID 83301

01-0023
-0297✓
-2068
-2064

Re: Application for Transfer of Water Rights involving Canyon View Irrigation Co.

Gentlemen:

Due to attorney scheduling conflicts, the conference in the above matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Twin Falls Canal Company
c/o John Rosholt
P.O. Box 1906
Twin Falls, ID 83301

Re: Application for Transfer of Water Rights involving Canyon
View Irrigation Co.

Gentlemen:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Tom Schafer
CH2M Hill
P.O.Box 8748
Boise, ID 83707

Re: Application for Transfer of Water Rights involving Canyon View Irrigation Company.

Dear Mr. Schafer:

Due to attorney scheduling conflicts, the conference in the above matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 25, 1987

Kent W. Foster
Attorney at Law
P.O. Box 129
Idaho Falls, ID 83402

Re: Application for Transfer of Water Rights involving Canyon
View Irrigation Company.

Dear Mr. Foster:

Due to attorney scheduling conflicts, the conference in the above
matter set for April 1, 1987 has been cancelled.

The conference will be rescheduled as soon as an appropriate date
can be selected.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER OF WATER RIGHT.)
NOS. 01-0023, 01-0297, 01-2068,)
AND 01-2064 IN THE NAME OF CANYON)
VIEW IRRIGATION COMPANY)
.....)

NOTICE OF
CONFERENCE

On July 23, 1976 Canyon View Irrigation Company applied to the Department of Water Resources to change the Place of Use of Water Right No. 01-0023, 01-0297, 01-2068, 01-2064.

Protests against granting of the application have been received from:

Theo F. Jagels
Mrs. Winnifred Schaer
Arnold Schroeder
Robert W. Schaer
Lynn Jagels

Twin Falls Canal Company
Lucille Schroeder
Mrs. Emil Jagels
Glen Gier

The Department has set a conference in this matter for 1:30 p.m. on Wednesday, April 1, 1987 at their office located at 2148 4th Avenue East, Twin Falls, ID to be combined with conference on related Applications for Transfer.

The conference is for the purpose of formulating and clarifying issues and determining the interests of the parties in the matter.

The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the IDAHO CODE and Adopted Rules of Practice and Procedure of the Department of Water Resources.

A copy of Rule 8 of the Rules of Practice and Procedure concerning conferences is attached.

Dated this 18 day of March, 1987.

Loren O. Holmes
Loren O. Holmes

RECORDED

MAR 14



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 18, 1987

John A. Rosholt
Attorney at Law
P.O. Box 1906
Twin Falls, ID 83301

Re: Notices of Conference on Transfers 27-0004,
(Hollingworth/Mynarcik), 01-0023, 01-0297, 01-2068, 01-2064
(Canyon View).

Dear Mr. Rosholt:

Enclosed please find copies of Notices of Conference for the
above referenced transfers in the name of Canyon View Irrigation
Company.

Also enclosed is a map showing directions to the new location of
the Department office in Twin Falls.

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

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

Enclosures

RECEIVED

MAR 14 1987

ADDRESS OF SENDER		NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS		POSTAGE	FEE	Handling Charge	Actual Value (if Requested)	if C.O.D.	FEE	FEE	FEE	FEE
1	296	Young Bros. Inc. Co.		22	79	75						
2	287	Tom S. S. S.										
3	285	Mr. F. Woods										
4	284	W. S. S. S.										
5	290	W. S. S. S.										
6	291	W. S. S. S.										
7	292	W. S. S. S.										
8	293	W. S. S. S.										
9												
10												
11												
12												
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15												

8

POSTMASTER: PER (Name of receiving employee)

The full declaration of value is required on all domestic and international mail. Commercial insurance—payment of the full registry fee is required up to \$1,000 or the full amount of the deductible is the cost of \$1,000. The maximum liability payable is \$25,000 for registered mail and \$5,000 for insured mail. Special handling charges apply only to first class parcels. Special delivery service also includes special handling charges.

AR 9000

FORM 3877-83 COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

MAILING LIST FOR TRANSFER-Canyon View
01-2023, 01-0297, 01-2068, 01-2064

Theo F. Jagels
Rt. 1
Buhl, ID 83316

Mrs. Winnifred Schaer
Rt. 1, Box 177
Buhl, ID 83316

Mrs. Lucille Schroeder
Buhl, ID 83316

Mr. Arnold Schroeder
Buhl, ID 83316

Robert W. Schaer
Rt. 1, Box 176
Buhl, ID 83316

Twin Falls Canal Company
c/o John Rosholt
P.O. Box 1906
Twin Falls, ID 83301

Canyon View Irrigation Co., Inc. -Applicant
P.O. Box 411
Twin Falls, ID 83301

Protestants, but no current address:

Mr. Lynn Jagels
Mrs. Emil Jagels

Glen Gier

RECEIVED

MAR 14



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Canyon View Irrigation Co., Inc.
P.O. Box 411
Twin Falls, ID 83301

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Gentlemen:

This office is scheduling an administrative conference in the matter of the application by Canyon View Irrigation Company to transfer the above numbered water rights.

In 1976, Canyon View Irrigation Company applied to the Department to transfer the water rights, purchased from the Rockford Canal Company in Bingham County, to lands West of Salmon Falls Creek in Twin Falls County.

Canyon View proposed to divert and transport the water via the existing Twin Falls Canal Company system.

Tentatively, the conference is set for Wednesday, April 2, in Twin Falls. Formal notices giving the exact time and place for the conference will be mailed about March 20.

Please let us know if you have any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Loren O. Holmes", is written over a horizontal line.

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

RECEIVED
MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Twin Falls Canal Company
c/o John Rosholt
P.O. Box 1906
Twin Falls, ID 83301

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Dear Mr. Rosholt:

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Please let us know if you have any questions.

Very truly yours,

Loren G. Holmes, P.E.
Southern Region Supervisor

LH:mb

RECORDED
MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2143 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Robert W. Schaer
Rt. 1, Box 176
Buhl, ID 83316

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Dear Mr. Schaer:

This office is scheduling an administrative conference in the matter of the application by Canyon View Irrigation Company to transfer the above numbered water rights.

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Please let us know if you have any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Loren O. Holmes", is written over the typed name.

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2140 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Mrs. Lucille Schroeder
Buhl, ID 83316

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Dear Mrs. Schroeder:

This office is scheduling an administrative conference in the matter of the application by Canyon View Irrigation Company to transfer the above numbered water rights.

In 1976, Canyon View Irrigation Company applied to the Department to transfer the water rights, purchased from the Rockford Canal Company in Bingham County, to lands West of Salmon Falls Creek in Twin Falls County.

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Please let us know if you have any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Loren O. Holmes", is written over the typed name.

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

RECEIVED
MAR 11 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Mrs. Winnifred Schaer
Rt. 1, Box 177
Buhl, ID 83316

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Dear Mrs. Schaer:

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Tentatively, the conference is set for Wednesday, April 2, in Twin Falls. Formal notices giving the exact time and place for the conference will be mailed about March 20.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes
Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

MICROFILMED

MAR 14 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 10, 1987

Theo F. Jagels
Rt. 1
Buhl, ID 83316

RE: Canyon View Application for Transfer
01-0023, 01-0297, 01-2068, 01-2064

Dear Mr. Jagels:

This office is scheduling an administrative conference in the matter of the application by Canyon View Irrigation Company to transfer the above numbered water rights.

In 1976, Canyon View Irrigation Company applied to the Department to transfer the water rights, purchased from the Rockford Canal Company in Bingham County, to lands West of Salmon Falls Creek in Twin Falls County.

Canyon View proposed to divert and transport the water via the existing Twin Falls Canal Company system.

Tentatively, the conference is set for Wednesday, April 2, in Twin Falls. Formal notices giving the exact time and place for the conference will be mailed about March 20.

Please let us know if you have any questions.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

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INTER-DEPARTMENT MEMO — 1

FROM Kay Walker *Kay*

DATE Oct. 15, 1981

TO File 01-0297

SUBJECT Application for Extension of Time to Avoid Forfeiture

See Water Right File No. 01-0023 for all correspondence relating to this extension.

MICROFILMED

SIGNATURE

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

MAY 13 1977

NO. 01-0023/01-0297/01-2068/01-2064 Department of Water Resources
Eastern District Office

RECOMMENDATION OF WATERMASTER

I, Arthur L. Larson, watermaster of Snake River,
of Water District No. 01, County of Bonneville, Blaine, 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 Canyon
View Irrig. Co., 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: Reconciliation of legal problems
re B/W, and approval by USBR re storage allotments.

OR

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

Dated at Idaho Falls, Idaho, this 12th day of May 1977.

Arthur L. Larson
(signature)

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