

-
- A hand-drawn map on grid paper. The map features a rectangular area defined by blue lines. The dimensions of this area are labeled: the top side is 40, the right side is 40, the bottom side is 40, and the left side is 40. The area is labeled 'R 19 E' at the top and 'T 11 S' on the left. A north arrow is drawn to the right of the rectangle, pointing upwards. The grid lines are dashed, and the overall drawing is in blue ink.

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

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.

Hean Kidel
(Signature of applicant)

Subscribed and sworn to before me this 3rd day of December, 19 75

Carol E. Clough
(Notary public)

My commission expires 8-12-79

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 1914/45-0404, 45-0405 and said application is hereby APPROVED.

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 29 day of January, 19 76

L. Karl Higin

FOR DEPARTMENT USE ONLY

Received by ALB Date 12/3/75

Protest filed by _____

Prelim. check by ADM Fee \$30.00

Received by CC Date 12-3-75

Published in Times News

Copies of protest forwarded by _____

Pub. dates 12-11 & 12-18-75

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for approval denial

_____ rec'd. _____

by MB DF

Affidavit of Publication

RECEIVED
No. 4440

DEC 19 1975

STATE OF IDAHO,

COUNTY OF TWIN FALLS }

ss.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No.s 45-0404 and 45-0405

Notice is hereby given that Dean Kidd of Hansen, Idaho, has applied to the Department of Water Resources for a change in the place of use of the waters of Rock Creek tributary to the Snake River. The rights sought to be changed are evidenced by Decree No.'s 45-0404 and 45-0405 and are recorded as follows:

(1) 45-0404

Amount: 0.40 cfs; Priority: 1-1-1918; Point of Diversion: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 12S, Rge. 18 E, B. M. Twin Falls County. The water is used for the irrigation of 160 acres within the W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29; E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30, Twp. 11S, Rge. 19E, B. M.

(2) 45-0405

Amount: 1.60 cfs; Priority: 9-23-1929; Point of Diversion: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 12S, Rge. 18E, B. M. Twin Falls County. The water is used for the irrigation of 160 acres within the W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29; E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30, Twp. 11S, Rge. 19E, B. M.

TO BE CHANGED AS FOLLOWS

The applicant proposes to divert 2.00 cfs from Rock Creek tributary to the Snake River to irrigate 160 acres within the E $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 31, Twp. 11S, Rge. 19E, B. M.

Any protest against the approval of the proposed change of water right must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, on or before December 29, 1975.

R. Keith Higginson
Director
Publish: December 11 and 18, 1975.

I, Kay Mauer being first duly sworn upon oath, depose and say that I am Printer, Clerk of the Department of Water Resources of the TIMES-NEWS, published daily, except Saturday, at 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 Thursdays, commencing with the issue dated December 11, 1975, and ending with the issue dated December 18, 1975.

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, 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.

Subscribed and sworn to before me on this

day of

Kay Mauer
18th

December 11, 1975.

Harold L. Clark

Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4422
WATER RIGHT NO(S). 47-00175/47-00176/47-00187/47-00188

This is to certify that: BRENT FUNK
2951 N 4000 E
HANSEN ID 83334

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 47-00175 :			
IRRIGATION	04/01 to 10/31	0.40 CFS	169.0 AF
Priority: 01/01/1918			
Right No. 47-00176 :			
IRRIGATION	04/01 to 10/31	1.60 CFS	640.0 AF
Priority: 09/23/1929			
Right No. 47-00187 :			
IRRIGATION	04/01 to 10/31	2.50 CFS	640.0 AF
Priority: 06/29/1911			
Right No. 47-00188 :			
IRRIGATION	04/01 to 10/31	1.17 CFS	494.3 AF
Priority: 11/29/1918			
TOTAL:		* 5.67 CFS	* 1,024.0 AF

SOURCE

ROCK CREEK

TRIBUTARY OF

SNAKE RIVER

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 1, Township 12S, Range 18E
TWIN FALLS County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
11S 19E 31	NENE 38	NWNE 39	SWNE 34	
	SENE 36	NESE 33	NWSE 37	
	SWSE 39			256
Total number of acres irrigated:				** 256

OCT 26 1985

TRANSFER NO. 4422
WATER RIGHT NO(S). 47-00175/47-00176/47-00187/47-00188

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 47-O.
2. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
- * 3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
4. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- ** 8. Combined Right Nos. 47-00175 and 47-00176 are limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
- ** 9. Right No. 47-00187 is limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
- ** 10. Right No. 47-00188 is limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
11. See accompanying Order.

Dated this 10th day of

October, 1995


Chief, Water Alloc. Bureau

101995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4422 FILED IN THE)
NAME OF BRENT FUNK)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of application for transfer no. 4422, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 7, 1994, Brent Funk (applicant) filed application for transfer no. 4422 (application) with the department seeking to change the place of use of water right nos. 47-00175, 47-00176, 47-00187, 47-00188, 47-07529 and 47-00137B. The applicant seeks a permissible place of use for the water rights.

2. Information from the records of the watermaster of Water District No. 47-0 and from water right records of the department do not show that the applicant owns water right no. 47-00137.

3. Water right nos. 47-00175, 47-00176, 47-00187, and 47-00137 provide 0.02 cfs of water for the 256 acre place of use.

CONCLUSIONS OF LAW

1. Section 42-202, Idaho Code, provides in pertinent part as follows:

In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated unless it can be shown to the satisfaction of the department of water resources that a greater amount is necessary.

2. Section 42-222, Idaho Code, provides in pertinent part as follows:

(1) Any person, entitled to the use of water whether represented by license issued by the department of water

resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

3. The applicant has not shown that he is entitled to the use of water under right no. 47-00137.

4. The applicant is not entitled to divert more than 0.02 cfs of water per acre.

5. The department should not approve transfer no. 4422 authorizing a change in the place of use of right nos. 47-00137 and 47-07529.

ORDER

IT IS THEREFORE, HEREBY ORDERED that application for transfer no. 4422 is **PARTIALLY APPROVED** as shown on the attached transfer document; and

IT IS FURTHER, HEREBY ORDERED that transfer no. 4422 does not make changes to rights 47-00137 or 47-07529.

Dated this 10th day of October, 1995.


L. GLEN SAXTON, Chief
Water Allocation Bureau

Transfer No. 1914

Application No.

Decree Nos (1) 45-0404
(2) 45-0405
47-0175
47-0176

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT

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

Name of applicant Dean Kidd Phone 423-5980

Post office address Route #2, Box 162, Hansen, Idaho 83334

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree to Edna M. Kemp (Name)
in case of Harriet E. McDermid vs Magnus Larsen
dated 3-27-1942 in 11th Judicial county of Twin Falls (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

3. Source of water Rock Creek tributary to Snake River

4. Date of priority (1) 1-1-1918 (2) 9-23-1929

5. Water is used for the following purposes:

amount 0.40 cfs for Irrigation purposes from 3-15 to 11-15
amount 1.60 cfs for Irrigation purposes from 3-15 to 11-15
amount for purposes from to
(1) - 0.40 (month/day - both dates inclusive)

6. Total amount of water under right: a. (2) - 1.60 cubic feet per second
&/or
b. acre feet per annum

7. Location of original point of diversion is NE ¼ of NW ¼ of Section 1
Township 12S Range 18E, B.M., in Twin Falls County
Additional points of diversion, if any None

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
(1)	11S	19E	29					40	40										80
		30	40			40													80
(2)	11S	19E	29					40	40										80
		30	40			40													80

Total number of acres to be irrigated 160

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 NO CHANGE
- a. Amount of water to be diverted _____ c.f.s. &/or _____ acre feet
- b. Point(s) of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
- c. Description of diverting works _____
- d. Describe the reasons for applying for a change in the point(s) of diversion _____
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	
11S	19E	31													40			40	80
11S	19E	31		40	40														80

45-1-2

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS.

HARRIET E. McDERMID,

Plaintiff,

vs.

MAGNUS LARSEN, Watermaster of
Water District #30 of the State
of Idaho in charge of the dis-
tribution of the waters of Rock
Creek, Twin Falls County, Idaho,

Defendant,

and

CLYDE EDMINSTER, EDNA M. KEMP,
H. B. TILLEY, O. D. TILLEY,
MARIAN GILLETTE, Administratrix
of the Estate of W. H. Turner,
deceased, and Executrix of the
Estate of Cynthia G. Turner,
deceased; KENNETH LARSEN: and
EARL MURRAY,

Interveners.

D E C R E E

The above entitled action came on regularly for trial
at the March, 1942 term of the above court, and having been
tried by the Court on the 27th day of March, 1942, Honorable
James W. Porter, district judge, presiding; James R. Bothwell, Esquire,
appearing for plaintiff, Harriet E. McDermid; Messrs.
Parry and Thoman appearing for Clyde Edminster, Edna M. Kemp,
H. B. Tilley and O. D. Tilley, interveners; Frank L. Stephan,
Esquire, appearing for Marian Gillette, administratrix of the
estate of W. H. Turner, deceased, and executrix of the estate of
Cynthia G. Turner, deceased, intervener; S. T. Hamilton, Esquire,
appearing for Kenneth Larsen, intervener; and A. J. Myers,
Esquire, appearing for Earl Murray, intervener; and the defendant
Magnus Larsen not appearing, and his default having heretofore
been entered by the Clerk; and after hearing the allegations and
proofs of the parties, which consisted of a Stipulation of Facts,

RECORDED

and East half of the Northwest Quarter (NE¹SW¹),
Section Twenty-nine (29), Township Eleven (11)
South, Range Nineteen (19) East Boise Meridian,

a water right from Rock Creek, Twin Falls County, Idaho, and its
tributaries, of

45 0400[✓] 3 1/5 cubic feet of water per second of time
with a priority date of July 13, 1907, and

45 0401[✓] 1 3/5 cubic feet of water per second of time
with a priority date of September 23, 1929,

all to be diverted from Rock Creek into the Romig-Osborne-
Elliott ditch at a point in the Northeast Quarter of the North-
west Quarter (NE¹NW¹) of Section one (1), Township Twelve (12)
South, Range Eighteen (18) East Boise Meridian, Twin Falls
County, Idaho.

III

That there is hereby awarded to Edna M. Kemp, inter-
vener, and her successors in interest, for use upon the follow-
ing described lands situated in Twin Falls County, Idaho, to-wit:

✓ The West half of the Northwest Quarter (W¹NW¹),
Section Twenty-nine (29), and East half of the
Northeast Quarter (E¹NE¹) of Section Thirty (30),
Township Eleven (11) South, Range Nineteen (19)
East Boise Meridian,

a water right from Rock Creek, Twin Falls County, Idaho, and its
tributaries, of

- 45 0402[✓] 1 1/5 cubic feet of water per second of time
with a priority date of July 13, 1907, and

45 0403[✓] 1 1/5 cubic feet of water per second of time
with a priority date of June 29, 1911; and

45 0404[✓] 2/5 of 1 cubic foot of water per second of time
with a priority date of January 1, 1918, and

45 0405[✓] 1 3/5 cubic feet of water per second of time
with a priority date of September 23, 1929,

all to be diverted from Rock Creek into the Romig-Osborne-
Elliott ditch at a point in the Northeast Quarter of the North-
west Quarter (NE¹NW¹) of Section One (1), Township Twelve (12)
South, Range Eighteen (18) East Boise Meridian, Twin Falls
County, Idaho

WARRANTY DEED

For Value Received

NEVA HILL McCLAIN,

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GARNET DEAN KIDD and RETA KIDD, husband and wife,

Hereinafter called the Grantee, the following described premises situated in Twin Falls County, Idaho, to-wit:

Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$)
of Section 19, East Half of the Northeast Quarter
(E $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 30, and the West Half of the
Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 29, Township 11
South, Range 19, E. B. M., Twin Falls County, Idaho,

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: This 28th day of January, 1970.

Neva Hill McClain

STATE OF IDAHO, COUNTY OF TWIN FALLS

On this 28th day of January, 1970
before me, a notary public in and for said State, personally appeared

NEVA HILL McCLAIN,

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.

Notary Public

Residing at Twin Falls, Idaho.

STATE OF IDAHO, COUNTY OF TWIN FALLS

I hereby certify that this instrument was filed for record
at the request of

at _____ minutes past _____ o'clock m.,
this _____ day of _____,
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$ _____
Mail to: _____

Instrument No. 2

WARRANTY DEED

THIS INDENTURE, made this 21 day of July, 1966, between

MAXWELL D. HARNEY and LORETTA R. HARNEY, husband
and wife

of Kimberly, County of Twin Falls, State of Idaho

the parties of the first part, hereinafter called the grantor, and

NEVA HILL McCLAIN

of Buhl, County of Twin Falls, State of Idaho

the party of the second part, hereinafter called the grantee.

WITNESSETH, that the grantor, for and in consideration of the sum of

One and no/100 - - - - - DOLLARS

and other good and valuable considerations
in lawful money of the United States of America, to the grantor in hand paid by the grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the grantee, and to the grantee's heirs and assigns forever, all the following described real estate, situated in Twin Falls County, State of Idaho:.

Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Nineteen (19); East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Thirty (30) and the West half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Twenty-nine (29); all in Township Eleven (11) South, Range Nineteen (19) E.B.M., Together with all water and water rights, ditch and canal rights, thereunto belonging and in any way appertaining.

Subject to the taxes and assessments to be levied and assessed against the said real property for the year 1966 and subsequent years.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto, be longing or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the grantor.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with appurtenances, unto the grantee, and to the grantee's heirs and assigns forever. And the grantor, and the grantor's heirs, the said premises in the quiet and peaceable possession of the grantee, and the grantee's heirs and assigns, against the grantor, and the grantor's heirs, and against all and every person and persons whomsoever, lawfully claiming the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the grantor has subscribed this deed the day and year first above written.

Maxwell D. Harney
Loretta R. Harney

RECORDED

We, Donald C. Reed and Joan Reed of Route #2 Wendell, Idaho herein after referred to as buyers and Maxwell D. and Loretta Harney herein after as Sellers, do hereby agree to the following - Buyer agrees to buy and Seller agrees to sell the following:

A certain Contract by at between Neva Hill McClain as buyer and Maxwell D. and Loretta R. Harney as Sellers, Later being taken over by Garnett Kidd and Dean Kidd.

This particular Contract is on a purchase, sell agreement on a certain portion of Property near Hansen, Idaho. A more clearly legal description as here shown below:

The Southeast Quarter of the Southeast Quarter [SE 1/4 SE 1/4] of Section Nineteen [19];
The East One-half of the Northeast Quarter [E 1/2 NE 1/4] of Section Thirty [30];
The West One-half of the Northwest One-fourth [W 1/2 NW 1/4] of Section Twenty-nine [29];
The East One-half [E 1/2] of Section Thirty-one [31];
All in Township Eleven [11] South, Range Nineteen [19] East of the Boise Meridian, together with all water, water rights, etc.

Included and made a part of this agreement is as follows:

Buyers will assume a mortgage upon this said property which Sellers have taken out from the Grange Mutual Life Insurance Co. Nampa, Idaho relieving Sellers of this liability.

Sell price one dollar [\$1.00] or more and other valuable considerations.

Maxwell D. Harney
Seller

Donald C. Reed
Buyer

Loretta R. Harney
Seller

Joan Reed
Buyer

Dated this 15th day of March 1974

Matthew J. Jorgensen
Notary Public



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

October 10, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

BRENT FUNK
2951 N 4000 E
HANSEN ID 83334

RE: TRANSFER NO. 4422

Dear Water Right Holder:

Enclosed is a copy of the partially approved Transfer No. 4422 of Water Rights 47-00175/47-00176/47-00187/47-00188. Please be sure to thoroughly review the Conditions/Remarks as listed on the transfer, and the enclosed Preliminary Order.

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

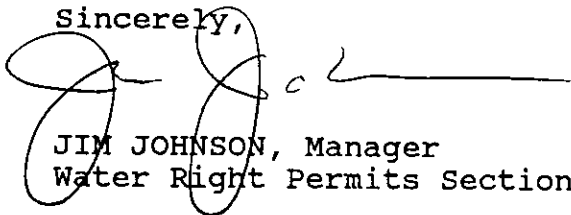
APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

A handwritten signature in dark ink, appearing to be "Jim Johnson", with a long horizontal line extending to the right.

JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

Enclosure

MEMORANDUM

TO: FILE 47-00176

FROM: PAM SKAGGS

RE: TRANSFER # 4422

DATE: 8-16-74

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 47-00137.

MICROFILMED

OCT 30 1995

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
--------------	------	------------------	-------------------	--------------

	Kemp, Edna M.	1.60		~~47-0176~~ ~~45-0405~~
1914	Kidd, Dean	1.60	0.0	~~47-0176~~ ~~45-0405~~

TRANS

January 30, 1976

Re: Application for Transfer No. 45-0404
45-0405

(1914)

Dean Kidd
Route 2, Box 162
Hansen, ID 83334

Dear Mr. Kidd:

Enclosed is a copy of your approved Application for Transfer No. 45-0404 and 45-0405.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:rb

Enc.

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. ⁴⁵⁻⁰⁴⁰⁴
~~245-0405~~

RECOMMENDATION OF WATERMASTER

RECEIVED
JAN 14 1976
Department of Water Resources
Southern District Office

I, WM. J. Brockman, watermaster of Rock Creek,
of Water District No. 45-J, County of Twin Falls, State of Idaho,
whose address is RT2 Box 104 Kimberly Idaho 83341
have read the attached copy of the application for transfer of water right for _____
Dean Kidd, 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: That the transfer not interfere with
any prior rights in the ditch being transferred into.
Explanation or back.

OR

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

Dated at 1-13-76, Idaho, this 13 day of JANUARY 19 76.
Kimberly

WM. J. Brockman
(signature)

The water rights transfer decrees 45-0404 & 45-0405 are measured by myself into a community ditch. I am not familiar with the distribution past the point of diversion. Alan Kidd has assured me there is ample capacity in the ditch he is transferring into. Since he is a reputable man I am sure this is true.

I see no problem in this transfer at the present time & therefor endorse it.

Wm J. Brockman

Jan 5, 1976

Re; Application for Transfer of Water Right 45-0404 , 45-0405-Dean Kidd

Mr. Bill Brockman
Rte. # 2
Hansen, Idaho

Dear Mr. Brockman;
En

Enclosed please find a Recommendation of Watermaster form and a copy of the above referenced transfer.

We would appreciate it if you would fill out the Recommendation form and submit to our office with your recommendations at your earliest convenience

Thank you

Sincerely

Reid J Newby
Water Resource Agent

December 5, 1975

RE: Notice of Proposed Change of Water Right No.'s 45-0404 & 45-0405 - Dean Kidd

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

Gentlemen:

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

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

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

MICHAEL L. STEELE
Southern District Supervisor

MLS:cc

Bill submitted: 12-30-75 CC

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NOS 45-0404 and 45-0405

Notice is hereby given that Dean Kidd of Hansen, Idaho, has applied to the Department of Water Resources for a change in the place of use of the waters of Rock Creek tributary to the Snake River. The rights sought to be changed are evidenced by Decree No.'s 45-0404 and 45-0405 and are recorded as follows:

(1) 45-0404

Amount: 0.40 cfs

Priority: 1-1-1918

Point of Diversion: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 12S, Rge. 18E, B.M. Twin Falls County.

The water is used for the irrigation of 160 acres within the W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29; E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30, Twp. 11S, Rge. 19E, B.M.

(2) 45-0405

Amount: 1.60 cfs

Priority: 9-23-1929

Point of Diversion: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 12S, Rge. 18E, B.M. Twin Falls County.

The water is used for the irrigation of 160 acres within the W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29; E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30, Twp. 11S, Rge. 19E, B.M.

TO BE CHANGED AS FOLLOWS

The applicant proposes to divert 2.00 cfs from Rock Creek tributary to the Snake River to irrigate 160 acres within the E $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 31, Twp. 11S, Rge. 19E, B.M.

Any protest against the approval of the proposed change of water right must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, on or before December 29, 1975.

R. KEITH HIGGINSON

Director

Published in the Times News on 12-11 & 12-18-75.