

DRAFT MEMORANDUM

DATE: 12/2/02

FROM: Lori Graves

TO: Transfer File No. 70275

RE: Evaluation

*Top
Reference
only*

Brief: A portion of the land within the existing company boundary is being developed for residential and recreational purposes. Some currently irrigated lands will be removed from irrigation. The transfer proposes expanding the Company boundary to allow irrigation of new lands. No change in total irrigated area is proposed.

The subject area is located South of McCall on the East side of Farm to Market road.

Contact person for the applicant is Brian McMahan, attorney for the applicant.

Authority to File: Applicant is listed as the current owner on recently created SRBA recommendation and IDWR records.

Water Right Validity: SRBA claims were filed on these rights 8/18/1988. The SRBA staff recently reviewed the rights and submitted their recommendations to the court in June, 2000. The recommended rights are the basis for this transfer. Forfeiture does not appear to be an issue based on 1987 aerial photography.

Injury to Other Water Rights: None anticipated.

Enlargement of Use: No increase in licensed acres to be irrigated, flow rate or volume have been proposed.

Local Public Interest: No negative impacts are anticipated.

Beneficial Use/Conservation of Water Resources: Proposal is consistent with standard irrigation practices in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of the application.

Additional Information: Attachments A through F consists of the shareholders' ownership documentation for the proposed Company boundary expansion. The Company currently consists of three parties; John Carey, Scott and Vicki Findlay and

Alan Busby. These shareholders also have individual irrigation rights for their lands within the boundary area. The rights involved in this transfer represent storage water from Boulder Meadows Reservoir, which is filled with water from Boulder Creek.

Data entry affected the correct record.

The SRBA recommendations were objected to by the Bureau of Reclamation regarding the separate streams issue. Garrik Baxter stated that a settlement was recently submitted and that the Bureau of Reclamation did not need notified of the transfer.

The attorney signed the transfer. Power of attorney was requested 2/4/2003. (Received 2/10/03 and labeled as Attachment G)

Conditions: Assuming protests are not filed and/or other information does not contradict the above analysis, and assuming it is determined the application should be approved, the following conditions of approval should be applied:

1. Rights 65-2963 and 65-12007 when combined shall not exceed the irrigation of 350 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65D.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. The period of use for the irrigation described in this approval may be extended an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977. This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from

receiving any relief provided by law in the event of injury.

7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 70275**

This is to certify that: BOULDER MEADOWS IRRIGATION INC
C/O MILLEMANN PITTENGER MCMAHAN & PEMBERTON LLP
PO BOX 1066
MC CALL ID 83638
(208)634-7641

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
65-2963	AJC/Decreed	12/09/1965	6.18 cfs	490 af	350.0	350.0	BOULDER CREEK
65-12007	AJC/License	09/30/1977	N/A	80 af		350.0	BOULDER CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-2963	NO	NO	YES	NO	NO	NO
65-12007	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
65-2963	65-2963	6.18 cfs	490 af	350	1,280.		N/A	N/A	N/A	N/A
65-12007	65-12007	N/A	80 af	350	1,280.		N/A	N/A	N/A	N/A
TOTALS		6.18 cfs	570 af	350	1,280		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this _____ day of _____, 20_____

Chief, Water Allocation Bureau

WATER RIGHT NO. 65-12007
As Modified by Transfer No. 70275

In accordance with the approval of Transfer No. 70275, Water Right No. 65-12007 is now described as follows.

Right Holder: BOULDER MEADOWS IRRIGATION INC
 C/O MILLEMANN PITTENGER MCMAHAN & PEMBERTON LLP
 PO BOX 1066
 MC CALL ID 83638

Priority Date: September 30, 1977

Source: BOULDER CREEK **Tributary:** CASCADE RESERVOIR

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION FROM STORAGE	04/15	10/15		80.0 AF
IRRIGATION STORAGE	01/01	12/31		80.0 AF
				80.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BOULDER CREEK SWNE Sec. 28 Twp 18N Rge 04E VALLEY County

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
17N	03E	1	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
17N	03E	12	40.0	40.0			40.0	40.0	40.0	40.0	40.0	40.0	40.0							400.0
17N	04E	6					40.0	40.0			40.0	40.0								160.0
18N	03E	36												40.0	40.0					80.0

Total Acres: 1280

PLACE OF USE: IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
18N	04E	27																			
18N	04E	28			X	X															

Total Acres: 350

**WATER RIGHT NO. 65-12007
As Modified by Transfer No. 70275**

CONDITIONS OF APPROVAL

1. Rights 65-2963 and 65-12007 when combined shall not exceed the irrigation of 350 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65D.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. The period of use for the irrigation described in this approval may be extended an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this _____ day of _____, 20_____

Chief, Water Allocation Bureau

WATER RIGHT NO. 65-2963
As Modified by Transfer No. 70275

In accordance with the approval of Transfer No 70275, Water Right No. 65-2963 is now described as follows.

Right Holder: BOULDER MEADOWS IRRIGATION INC
 C/O MILLEMANN PITTENGER MCMAHAN & PEMBERTON LLP
 PO BOX 1066
 MC CALL ID 83638

Priority Date: December 09, 1965

Source: BOULDER CREEK **Tributary:** CASCADE RESERVOIR

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/15	6.18 CFS	
IRRIGATION FROM STORAGE	04/15	10/15		490.0 AF
IRRIGATION STORAGE	01/01	12/31		490.0 AF
			6.18 CFS	490.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BOULDER CREEK SWNE Sec. 28 Twp 18N Rge 04E VALLEY County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	03E	1	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
17N	03E	12	40.0	40.0			40.0	40.0	40.0	40.0	40.0	40.0	40.0						400.0
17N	04E	6					40.0	40.0			40.0	40.0							160.0
18N	03E	36												40.0	40.0				80.0

Total Acres: 1280

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	03E	1	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
17N	03E	12	40.0	40.0			40.0	40.0	40.0	40.0	40.0	40.0	40.0						400.0
17N	04E	6					40.0	40.0			40.0	40.0							160.0
18N	03E	36												40.0	40.0				80.0

Total Acres: 1280

**WATER RIGHT NO. 65-2963
As Modified by Transfer No. 70275**

PLACE OF USE: IRRIGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18N 04E 27							X										
18N 04E 28			X	X													

Total Acres: 350

CONDITIONS OF APPROVAL

1. Rights 65-2963 and 65-12007 when combined shall not exceed the irrigation of 350 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65D.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. The period of use for the irrigation described in this approval may be extended an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

**WATER RIGHT NO. 65-2963
As Modified by Transfer No. 70275**

CONDITIONS OF APPROVAL

8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this _____ day of _____, 20_____

Chief, Water Allocation Bureau

PART 1

6. General Information:

a. Description of diversion system Boulder Meadows Reservoir with storage of 570
acre feet, ditches and pipeline to place of use, sprinklers for
irrigation

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
 Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or
contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Some irrigated lands will be withdrawn from irrigation and converted to
roads, residences, wastewater treatment facilities, etc. No change in
total acres are proposed.

d. Remarks:
The total area irrigated under these rights will not exceed 350 acres.
Use of water under these rights is combined with water rights 65-2653,
65-2971, and 65-3118.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

And the said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20 _____

For the Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

DESCRIPTION OF RIGHT AS RECORDED

See attached SRBA Recommendation Report

1. Right as evidenced by:
 - a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
 - b. License No. _____ issued by the Idaho Department of Water Resources.
 - c. Claim No. 65-2963 on file with the Idaho Department of Water Resources.
 - d. Transfer No. _____ which produced this right.
2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

Tax Notice Warranty Deed Other _____

3. Source of water _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purposes:
- amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
- amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
- amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion

8. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Total		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			

Total Acres _____

Describe any other water rights used for the same purpose as described above _____

35

36
32

44-21-30

13

20

39

33

19

30

34

2

38

40

30

6

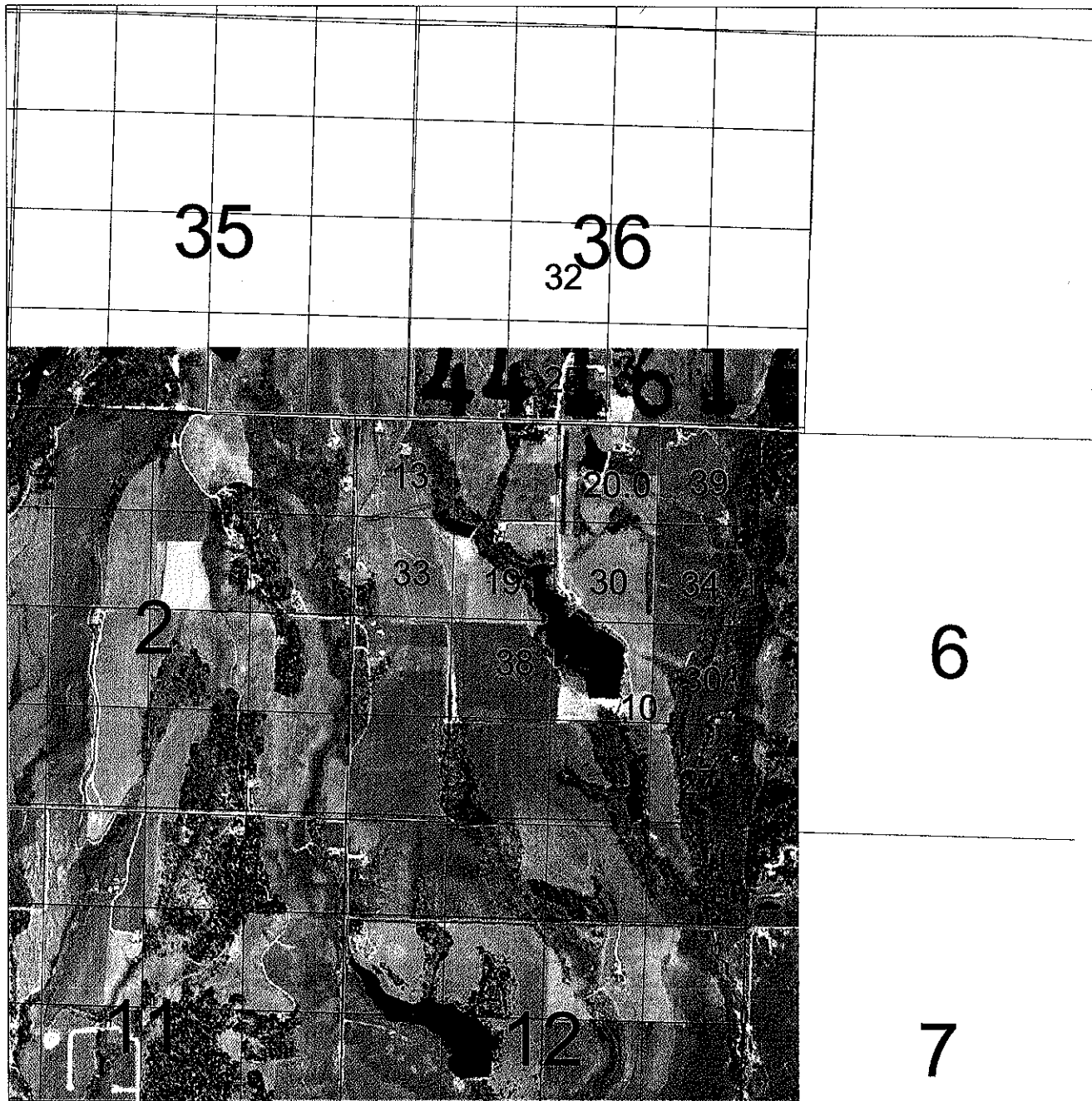
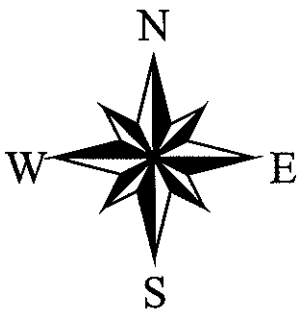
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View1

Boulder Meadows--Original

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RECEIVED

STATE OF IDAHO

Transfer No 70275
9/23/60

SEP 23 1960
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1
WESTERN REGION

Name of Applicant Boulder Meadows Irrigation, Inc.
c/o Millemann, Pittenger, McMahan & Pemberton, LLP Phone 208-634-7461
Post Office address P.O. Box 1066, McCall, ID 83638

A. PURPOSE OF TRANSFER

- Change point of diversion Add diversion point(s) Change place of use
 Change nature of use Change period of use Other _____
- Describe the reason for the proposed changes A portion of the land within the existing company boundary is being developed for residential and recreational purposes. Some currently irrigated lands will be removed from irrigation. The transfer proposes expanding the Company boundary to allow irrigation of new lands. No change in total irrigated area is proposed.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>65-2963</u>	<u>12/9/1965</u>	<u>6.18 cfs</u>	<u>irrigation</u>	<u>4/15 to 10/15</u>
		<u>490 ac-ft</u>	<u>irr. from stg.</u>	<u>4/15 to 10/15</u>
		<u>490 ac-ft</u>	<u>irr. storage</u>	<u>1/01 to 12/31</u>
<u>65-12007</u>	<u>9/30/1977</u>	<u>80 ac-ft</u>	<u>irr. from stg.</u>	<u>4/15 to 10/15</u>
		<u>80 ac-ft</u>	<u>irr. storage</u>	<u>1/01 to 12/31</u>

2. Total amount of water being transferred 6.18 cubic feet per second and/or 570 acre-feet per annum.

3. Source of water Boulder Creek tributary to Cascade Reservoir

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		SW	NE	28	18N	4E	Valley	Boulder Meadows Reservoir

5. Lands irrigated or place of use: see map

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	3E	1	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		12	X	X			X	X	X	X	X	X	X						
17N	4E	6					X	X			X	X							
18N	3E	36													X	X			

Total Acres 350