

RECEIVED
MAY 06 1993STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4150

APPLICATION FOR TRANSFER OF WATER RIGHT RECEIVED

PART 1

AUG 13 1993

Department of Water Resources

Name of Applicant

Conrad H. Nebeker

Phone

Department of Water Resources
(801) 399-4241

Post Office address

2554 Monroe Ogden, Utah 84401

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Change source to Bear Lake
2. Describe the reason for the proposed changes to utilize a) the present pumping system & water distribution system and b) the agreement with Utah Power & Light to use Bear Lake on a restricted basis

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 |
|-----------------|---------------|--------------------|---------------|---------------|
| 11-00245 | April 1, 1898 | 2.35 cfs | Irrigation | 4-15 to 10-15 |
| | | | | to |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 2.35 ^{See memo} cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Bear Lake tributary to Bear River
4. Point(s) of Diversion: Indian Creek Bear Lake *

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
3		SE	NW	25	15S	44E	Bear Lake	Bear Lake
* 1		NE	NE	25	15S	44E	Bear Lake	Indian Creek - original P.D.

5. Lands irrigated or place of use: * Added as per tele-con with Applicant 7-26-93 HWT

Twp.	Rge.	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	
15S	44E	24												40					40
		25	5	20	25		5			16	6								77
							62			63	66								
15S	44E	24												6					6
														67					
		25		4	7		19			22	10								62
							62			63	66								

* Change as per tele-con with Mr. Nebeker 5-13-93 HWT

Total acres 117 68 *

Page _____ of _____

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Pump in Bear Lake with intake placed
in a sump on ID Dept. of Lands ground.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes ☒ 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:

No change - This land has been irrigated from this location intermittently
since the 1920's. The understanding with Utah Powerlight (PacifiCorp)
was recently reconfirmed - see attached letter.

d. Remarks:

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 _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 11-00245 Decreed to Edwin A. Austin
in case of Austin vs. Curless
dated 4-05-1927 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a 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 Indian Creek tributary to Bear Lake

4. Date or priority 4-01-1898

5. Water is used for the following purpose:

- amount 2.35 cfs for Irrigation purposes from Not Specified in Decree 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 2.35 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not Specified in Decree

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	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	
15S	44E	24												A					
		25	A	A	A														
			L-6	L-2	L-3														

Total acres 117.7

9. Describe any other water rights used for the same purpose as described above NA.

Page _____ of _____

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 _____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

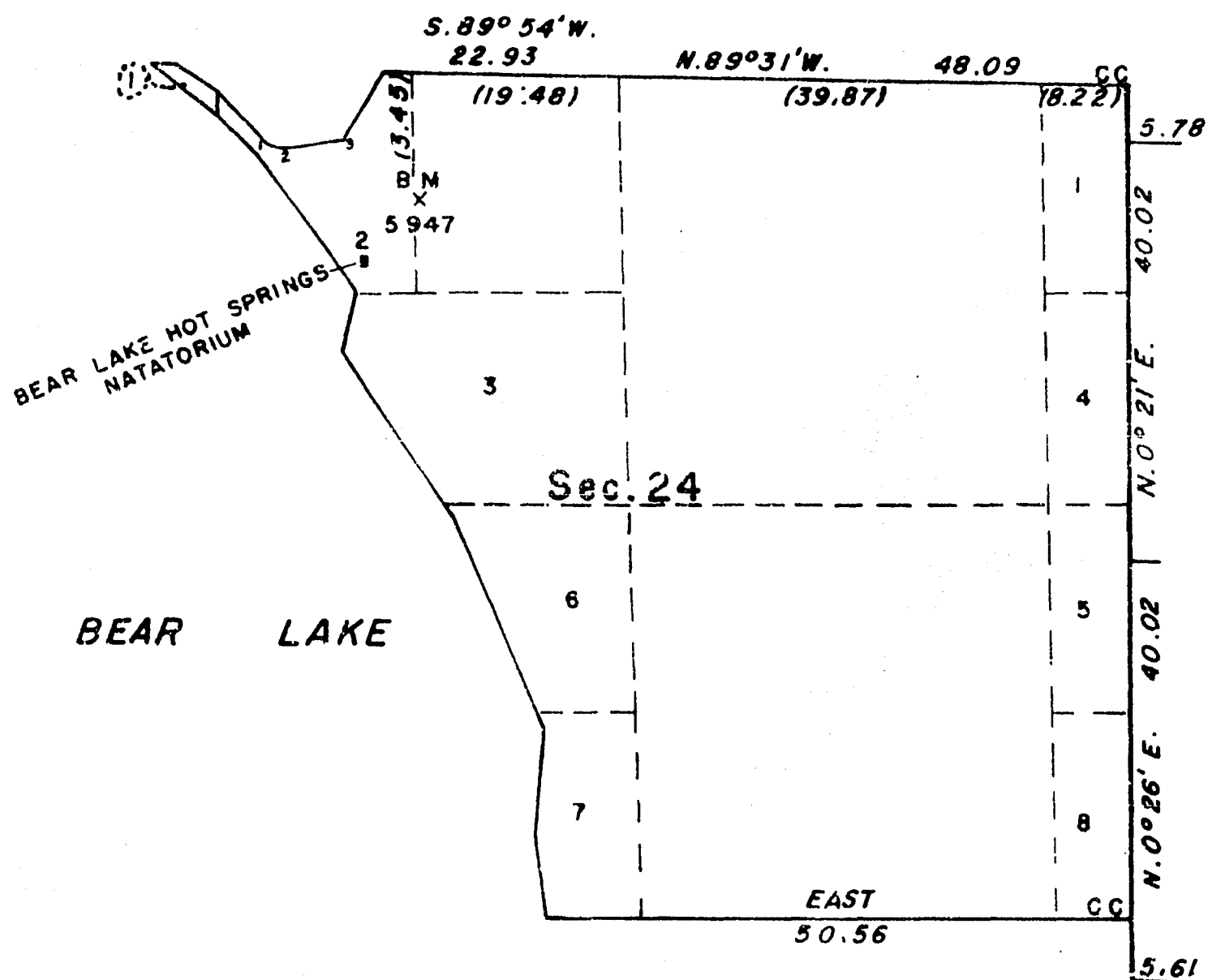
Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

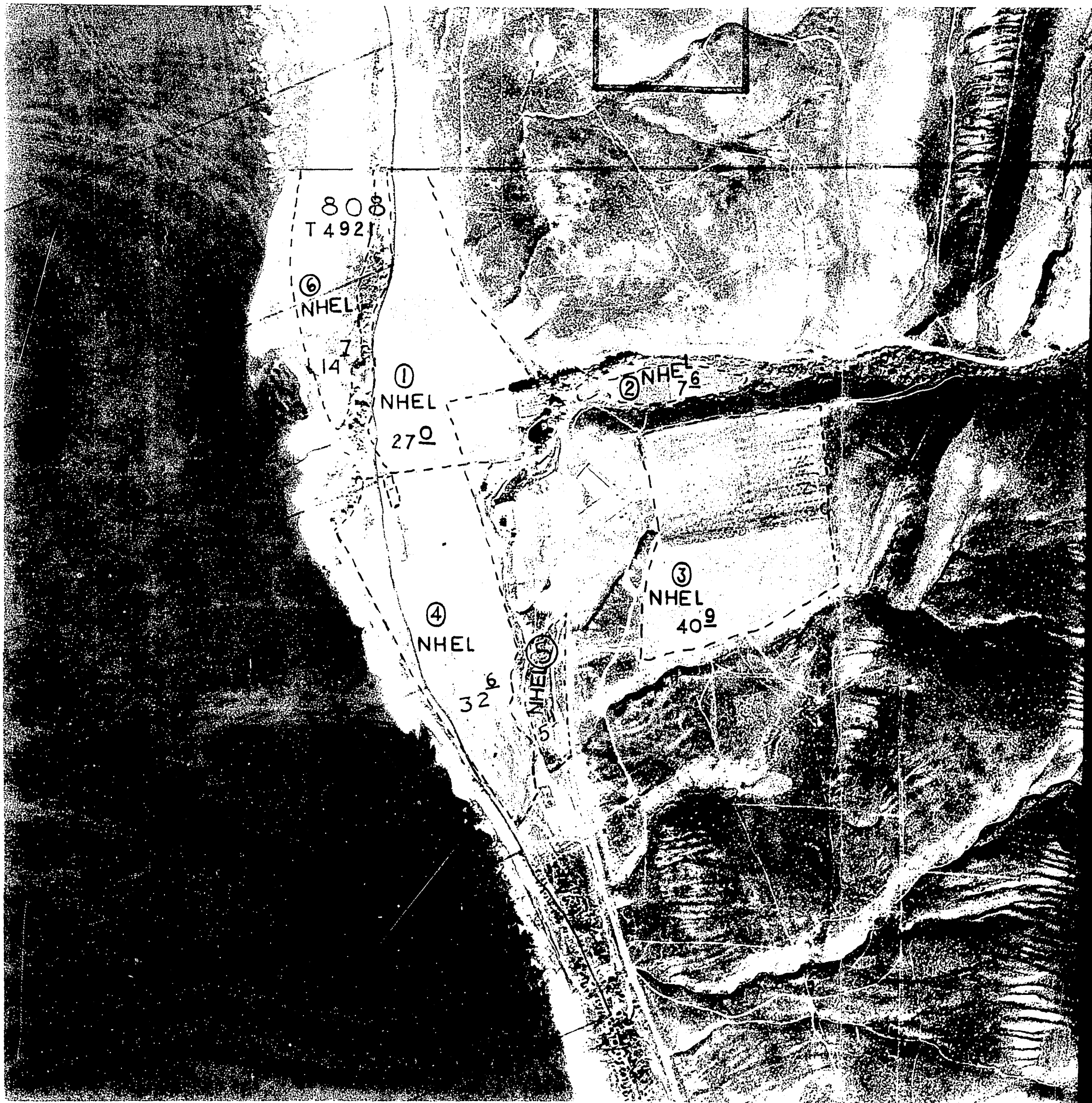
23



MEMORANDUM

This plat delineates a retracement and reestablishment of the lines of the original survey in their true original positions according to the best available evidence of the position of the original corners.

0.82 (BEAR



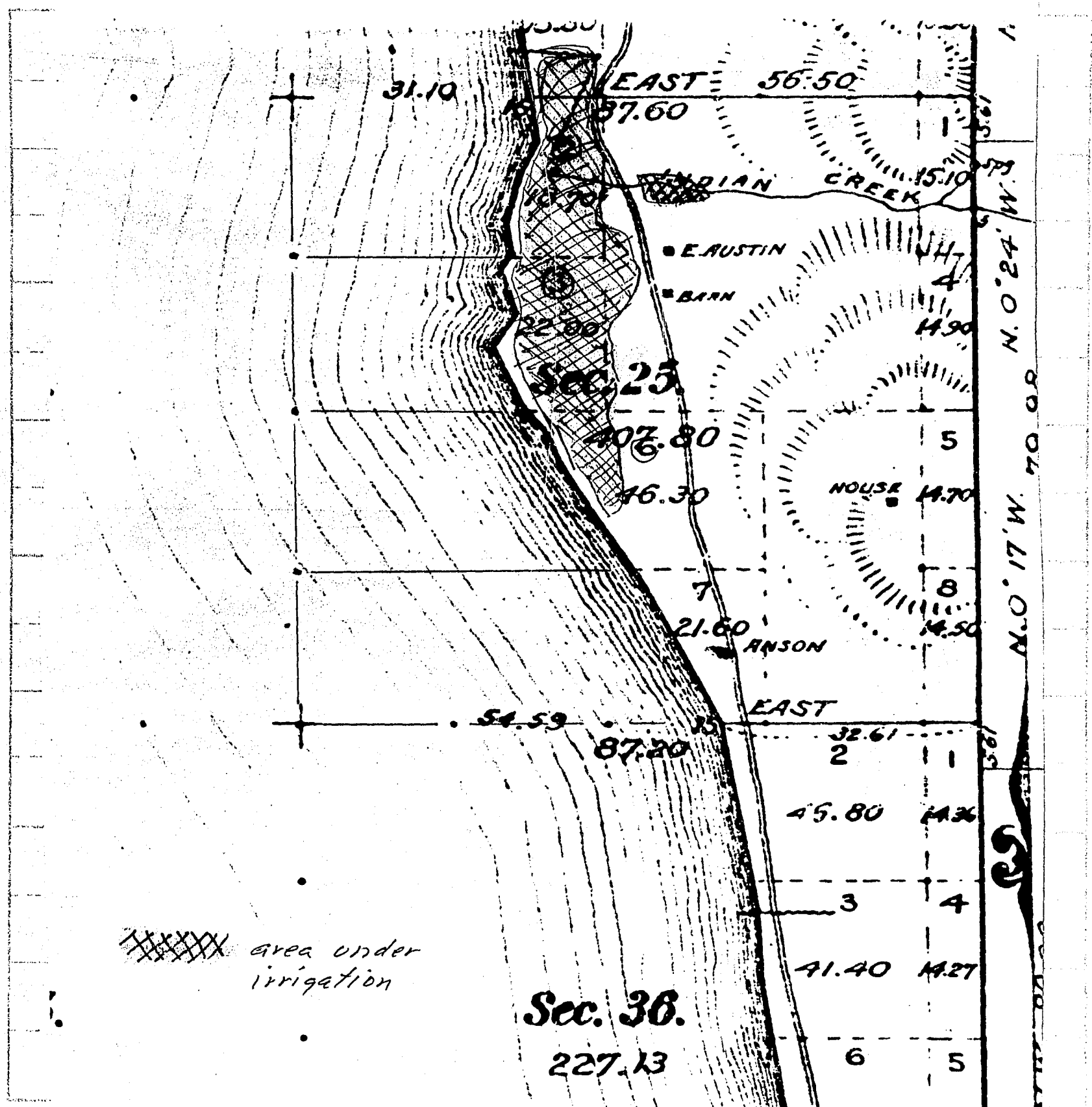
19 20
30 29

② NHEL
76

③
NHEL
409

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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

Page _____ of _____

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

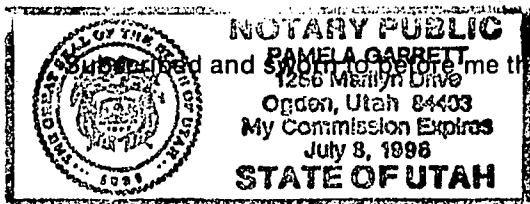
1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	<u>none</u>			_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that 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.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



Conrad D. [Signature]
(Signature of Applicant)

4 day of May, 1993

Pamela Garrett
(Notary Public)

My commission expires 8 July 1996

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by HWT Date 4-26-93 Protest filed by _____

Prelim. check by _____ Fee \$50 E018499

Received by HWT Date 4-26-93

Published in News Examiner Copies of protest forwarded by _____

Pub. dates May 27 & June 3, 1993 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☒ approval ☐ denial

_____ rec'd. _____ by RDC

Copy of transfer sent to lien holder _____

WR5812NP
SELECTION-FILE: ANDREGG-1135193

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS SUMMARY REPORT

DATE: 08/13/93
PAGE: 1

WR-NUMBER: 11-00245
CURRENT OWNER: EDWIN A. AUSTIN

PRIORITY DATE: 04/01/1898

STAGE: DECREE

SOURCE: INDIAN CREEK
WATER USE: IRRIGATION
TOTAL:

TRIBUTARY: BEAR LAKE
DIVERSION RATE: 2.350
DIVERSION VOLUME: 2.350

PERIOD FROM: PERIOD TO:

PLACE OF USE LEGAL DESCRIPTION FOR: IRRIGATION

		NE				NW				SW				SE				
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
15S	44E	24	:															
15S	44E	25	:	06-I	02-I	03-I	:											

DECREE PLAINTIFF: AUSTIN
DECREE DEFENDANT: CURLESS

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR BEAR LAKE COUNTY.

②
EDWIN A. AUSTIN,
Plaintiff,
VS.
EUGENE D. CURLESS,
Defendant.

original copy
D E C R E E

RECEIVED
OCT 31 1931
Department of Reclamation
W.D.-5-0

This cause came on regularly on for trial, on the 23rd day of March, 1927, before Honorable O. R. Baum, District Judge, DeMeade Austin and John A. Bagley appearing, as attorneys for the plaintiff Edwin A. Austin and D. E. Haddock appearing as attorney for the defendant, Eugene D. Curless;

Whereupon, the respective parties proceeded to negotiate a settlement and adjustment of the issues raised and joined by the pleadings, to wit the complaint of the plaintiff and answer thereto and the Cross-complaint of the defendant and the answer thereto and thereafter, to wit; on the 23rd day of March, 1927, a stipulation of all the facts was entered into, signed by the attorneys for the respective parties and agreed to by the respective parties, and filed herein, in which it was agreed, that the Findings of Fact, and Conclusions of Law were waived and that a decree in this case be entered in accordance with the said stipulation.

IT IS THEREFORE HEREBY ORDERED, ADJUDGED AND DECREED That the respective parties hereto, and each of them is hereby awarded and decreed the quantity of water hereinafter specified with date of priority and for the irrigation of lands hereinafter described and set forth, the said waters to be diverted from their several points of diversion from what is known as INDIAN CREEK a stream in Bear Lake County, State of Idaho, and the respective dates of appropriation as stipulated and hereinafter mentioned are decreed to be the date of priority of the respective claims.

11 10245

EDWIN A. AUSTIN, the plaintiff 117.70 miners inches being 2 17/50th second feet, date of appropriation April 1st 1898, all of said water to be diverted from Indian Creek, a stream in Bear Lake County, State of Idaho, and to be used upon 117.70 acres of land, being that part of his land, which lies under and susceptible of irrigation by his diversions works and ditches, that are embraced in the following described lands, to wit:

W $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 2, 3, and 6, and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25,
and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, all in Township 15 South
Range 44 East Boise Meridian, in Idaho.

*Trib of
Bear L*

Also 117-120th part of all the flood waters of said Indian Creek over and above the normal flow of said stream, of the date of April 1st 1898, for use upon the above described lands.

11 10244

TO THE DEFENDANT EUGENE D. CURLESS, three miners inches being 3-50th of one second foot, date of appropriation May 15th 1922, said water to be diverted from Indian Creek, a stream in Bear Lake County, State of Idaho, and to be used upon three acres of land being that part of his land susceptible of irrigation under his diversion works and ditches, that are embraced in the following described lands, to wit:

N $\frac{1}{2}$ N $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ Section 21, Township 15,
South Range 45 East, Boise Meridian, Idaho.

Also 3-120th part of the flood waters of said Indian Creek, over and above the normal flow of said stream, of the date of May 15th 1922, for use upon the said described lands.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That all of said lands are arid in character and require irrigation for their proper cultivation and for the profitable raising of crops thereon, and that the duty of water shall be fixed and determined, and is fixed and determined, at one miners inch of water per acre.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4150
WATER RIGHT NO. 11-00245

This is to certify that: **CONRAD NEBEKER**
2554 MONROE
OGDEN UT 84401

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>
IRRIGATION	04/15 to 10/15	1.36 CFS	238.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
INDIAN CREEK	BEAR LAKE

Priority: 04/01/1898

LOCATION OF POINT(S) OF DIVERSION:

Rediversion

Lot 1(NENE), Sec. 25, Township 15S, Range 44E
Lot 3(SENW), Sec. 25, Township 15S, Range 44E
BEAR LAKE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	44E	24	Lot 7(SESW) 6			6
		25	NWNE 4	SWNE 7	Lot 2(NENW) 19	
			Lot 3(SENW) 22	Lot 6(NESW) 10		62
				Total number of acres irrigated:		68

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. 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.

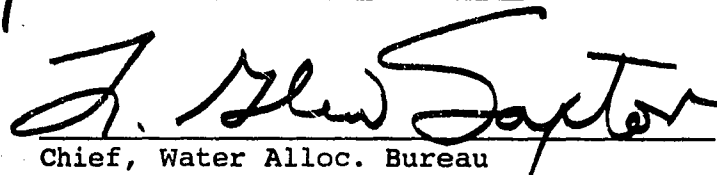
PAGE 2

TRANSFER NO. 4150
WATER RIGHT NO. 11-00245

CONDITIONS/REMARKS:

5. Prior to diversion of water under this approval, the right holder shall install and permanently maintain measuring devices of a type approved by the Department at three (3) locations; (1) the point of diversion on Indian Creek located within Lot 1, NENE, S25, T15S, R44E, (2) across the stream channel of Indian Creek below the point of diversion, and (3) at the point of rediversion from Bear Lake located within Lot 3, SENW, S25, T15S, R44E.
6. Rediversion of water from Bear Lake under this right shall not exceed the measured flow in Indian Creek below the point of diversion located within Lot 1, NENE, S25, T15S, R44E or a total maximum diversion of 1.36 cfs from Indian Creek.

Dated this 10th day of September, 1993.


Chief, Water Alloc. Bureau



PACIFICORP
ELECTRIC OPERATIONS

ONE UTAH CENTER

201 SOUTH MAIN • SUITE 2100 • SALT LAKE CITY, UTAH 84140-0021 • (801) 220-4803 • (801) 220-4648 (FAX)

HARRY A. HAYCOCK
Executive Vice President
POWER SUPPLY

November 19, 1991

Dr. Conrad Nebeker
2554 Monroe
Ogden, Utah 84407

Dear Dr. Nebeker:

By this letter agreement, Utah Power & Light Company (UP&L) hereby agrees to lease supplemental Bear Lake storage water to Conrad Nebeker (irrigator) under the following terms and conditions:

1. Irrigator has an existing water right on file or pending with the Idaho Department of Water Resources.
2. Irrigator's rights are for 117.7 miners inches (2.354 CFS) under application(s) or certificate(s) and court decree attached on file with the Idaho Department of Water Resources. Irrigator's water rights are for 117.7 acres of irrigated farmground located on Indian Creek near its confluence with Bear Lake. UP&L makes no claim to irrigator's water rights granted by the Department of Water Resources, and UP&L shall not interfere with or disrupt irrigator's lawful use in priority of its water rights in any manner whatsoever.
3. By April 1 of each year, UP&L will determine the amount and cost of Bear Lake storage water available for lease.
4. Irrigator will use Bear Lake storage water by exchange and will be limited to the flow from Paragraph #2 above or the measured flow in Indian Creek, whichever is less. When diversions from Bear Lake are less than or equal to the irrigator's rights or the flow from Indian Creek, whichever is less, there will be no charge for Bear Lake storage water.
5. Periodically, irrigator may require water from Bear Lake which is in excess of the flow in Indian Creek. At such times, irrigator will be required to purchase Bear Lake storage water under the terms and conditions specified in this letter agreement.
6. The amount of available storage water will vary from year to year based on the level of Bear Lake on April 1, the forecasted runoff, and general water supply as determined by UP&L. If Bear Lake level falls below 5,910.0 on April 1 and the projected water supply is

deficient based on the forecasted spring runoff; no storage water will be available for lease.

7. The cost will vary from year to year and will be equal to the cost to replace the lost energy from UP&L's hydro plants on the Bear River. For 1991, the cost will be \$10.10 per acre foot for any storage water diverted upstream from UP&L's Soda Plant.
8. Irrigator will, by May 1, request in writing the amount of Bear Lake storage water required for operation that year. All requests should be mailed to: Attention: Hydrology Supervisor, Room 195, 1407 West North Temple, Salt Lake City, Utah 84140.
9. If total requests exceed the available supply, the amounts granted to individual irrigators will be prorated based on the following formula:

Individual water right divided by total water rights
subscribed to times total available supply.

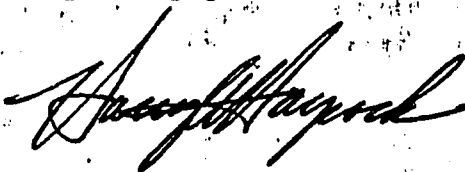
10. The District 11 Bear River Commissioner for Idaho, appointed each year by the Idaho Department of Water Resources, will deliver Bear Lake storage water to irrigator.
11. The Commissioner will determine the actual amount of storage water diverted by irrigator and will submit a report to UP&L at the end of irrigation season.
12. UP&L will render a billing to irrigator showing the amount of storage water used and the cost at the end of each irrigation season no later than December 1.
13. Irrigator will make payment to UP&L prior to March 1 of the following year and prior to receiving supplemental storage water the following year.
14. Storage water made available by this agreement cannot be subleased to another party. The storage water shall be used for supplemental irrigation purposes only. If irrigator sells the irrigated farmland during the term of this agreement, this agreement may be transferred to the buyer of the irrigated farmland if:
 - a. The land will continue to be used as irrigated farmland and Bear Lake storage water used as a supplemental irrigation source, and
 - b. Irrigator's water rights for use on the irrigated farmland are also transferred to the buyer.

November 19, 1991
Page 3

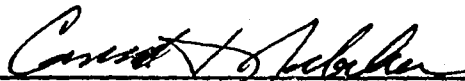
15. Irrigator understands and agrees that UP&L will use its best efforts to deliver the storage water, but further agrees to release and hold UP&L harmless from any and all liability, loss, or damage resulting from the interruption or discontinuance of the delivery of storage water.
16. Irrigator's right to receive storage water under this agreement will not be construed as a water right or a right to claim a firm allocation of UP&L's storage water in Bear Lake. To the extent that UP&L makes its Bear Lake storage water available to irrigators by contract, the Idaho District II Bear River Commissioner shall deliver Bear Lake storage water to irrigators in priority of contract dates.
17. This letter agreement shall remain in effect until notice of cancellation by either party giving one year's notice.

If you agree with the terms in this agreement, please sign both originals in the space provided, keep one for your record, and return one to Utah Power & Light Company, Attention: Carly Burton, 1407 West North Temple, Salt Lake City, Utah 84140.

Very truly yours,



ACCEPTED BY:



Irrigator

CBB3:cms

Attachments

IDAHO DEPARTMENT OF LANDS

1910 NW BLVD, STE 201, COEUR D'ALENE, ID 83814-2615

STANLEY F. HAMILTON
DIRECTOR

April 22, 1993

765-5235
RECEIVED

APR 26 1993

Department of Water Resources
Eastern District Office

BOARD OF LAND
COMMISSIONERS
CECIL D. ANDRUS
Governor
PETE T. CENARRUSA
Secretary of State
LARRY ECHOHAWK
Attorney General
J.D. WILLIAMS
State Auditor
JERRY L. EVANS
Sup't of Public
Instruction

Ron Carlson
Department of Water Resources
900 North Skyline
Idaho Falls, ID 83402

Dear Mr. Carlson:

Re: Application for Encroachment Permit L-11-S-152
- Waterline for Water Withdrawal from Bear Lake

Dr. Conrad H. Nebeker applied for subject encroachment permit on February 25, 1993. As a result of the public notice process, it has become apparent that Dr. Nebeker may not have a water rights permit. Enclosed is a copy of subject application.

Please provide information as to any water rights that Dr. Nebeker may or may not have on Bear Lake. If Dr. Nebeker does not have a water right, we cannot grant his application.

Mr. Robert Haynes of your department indicates there may be a moratorium on new water right permits in Bear Lake. I would appreciate any information on this situation.

Sincerely,



W. R. PITMAN, PE, Manager
Idaho Lake Protection Act

WRP/mc
enclosures
c: Dr. Nebeker

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

STANLEY F. HAMILTON
DIRECTOR

MEMORANDUM

DATE: March 4, 1993

TO: Idaho Department of Fish and Game, Pocatello
Idaho Department of Health and Welfare, Pocatello
Idaho Department of Water Resources, Idaho Falls
Bear Lake County Commissioners, Paris
Bear Lake Regional Commission, Fish Haven
Involved Parties: Sharon Lewis & Lorenzo Hemmert

FROM: W. R. Pitman, PE, Administrator *WRP*
Idaho Lake Protection Act

SUBJECT: NOTICE OF APPLICATION - L-11-S-152 - NEBEKER, Conrad H.

Enclosed is an application and plats requesting permission to excavate 1,600' trench; install and bury one-foot diameter water intake line in Bear Lake.

Please submit your recommendations to me by April 11, 1993, regarding the likely effect of the proposed encroachment upon adjacent property, lake, and streambed value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality. If you have concerns or are opposed to the project as proposed, please list your specific reasons for concern or opposition and any facts or documentation to support your position.

You should recommend alternate plans if they are economically feasible to accomplish the purpose of the proposed encroachment. You should also recommend any mitigation measures or special restrictions/provisions you would like included as part of the permit if one is issued.

If you do not submit a comment, I will assume you have no objections to the application. If you have questions concerning the application, I suggest you contact the applicant. If the applicant cannot answer your questions, please contact me at (208)765-5235.

mc

enclosures

c: Real Estate Specialist, Boise
Area Supervisor, EI

BOARD OF LAND
COMMISSIONERS
CECIL D. ANDRUS
Governor
PETE T. CENARRUSA
Secretary of State
LARRY ECHOHAWK
Attorney General
J.D. WILLIAMS
State Auditor
JERRY L. EVANS
Sup't of Public
Instruction

JOINT APPLICATION FOR PERMIT
U.S. ARMY CORPS OF ENGINEERS
AND
STATE OF IDAHO, DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO, DEPARTMENT OF LANDS

SEPARATE PERMIT DECISIONS MUST
BE RECEIVED FROM BOTH THE STATE
OF IDAHO AND THE CORPS OF
ENGINEERS PRIOR TO START OF
WORK

The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. These laws require permits authorizing structures and work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho, Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the Idaho Lake Protection Act, Section 58-142 et. seq, Idaho Code. This application will meet the requirements of the above agencies.

The applicant has sent copies of this application to the agencies checked: ID Dept. Water Res. - Boise _____,
Coeur d'Alene _____, Twin Falls ☒, Idaho Falls _____; ID Dept. Lands - Boise _____, Coeur d'Alene _____;
Corps of Engineers - Walla Walla _____.

PLEASE TYPE OR PRINT

1. Corps of Engineers # _____ Date Received _____	2. State of Idaho # <u>L-11-5-162</u> Date Received <u>Feb 25, 93</u>
3. Applicant <u>Conrad H. Nebeker</u> Mailing Address <u>1750 Kershaw Opden WA 98440</u> Area _____ Work Phone (800) <u>399-9242</u> Home (800) <u>621-2440</u> Date of Application <u>16 Feb 1993</u>	4. Authorized Agent _____ Mailing Address _____ Area _____ Work Phone () _____ Home () _____

5. Location where proposed activity exists or will occur.

Waterway Bear Lake Idaho Tributary of: _____
N/A NE. shore of Bear Lake Assessor's Desc. (Tax No. or Subdivision, Lot & Block No.)
In or near city of town _____ *(See instructions)
Bear Lake Idaho 83272 25 15S 44E
County State Zip Code 1/4 1/4 Section Township Range

6. Describe the proposed activity, including description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms. If additional space is needed, use a separate sheet or Section 16 (Remarks).

Describe the proposed activity in detail: excavate a trench at variable depth
(ranging from 4' at the west end of lake to 22' at the east or shore
end). 2) install a mounded intake structure approx 6'
in diameter buried 2' below the natural lake bed &
sloping upward to a height of 1' above the lake bed. It
will be made of cement with a grid over the inlet 3" dia pipe
the trench 2) fill & level the trench to the original level
Describe construction methods and equipment: _____

The intake structure will be made on land with an
attached pipe (1" dia) the trench will be dug with
a back or true hoe. The pipe will be laid as the trench is dug
the trench will be refilled & leveled as the project moves
toward shore. A 22' samp with covered top will be placed
on the shore (on private land)

Length of project along the stream or extension into lake or reservoir: _____
Stream gradient: 22' fall in 1600' or 1:72.72

Will material be placed waterward of ordinary high water mark? No

Will material be placed in adjacent wetlands? No

Type of fill material: sand, rock, dirt (i.e. sand, etc.) Material Source: excavated trench

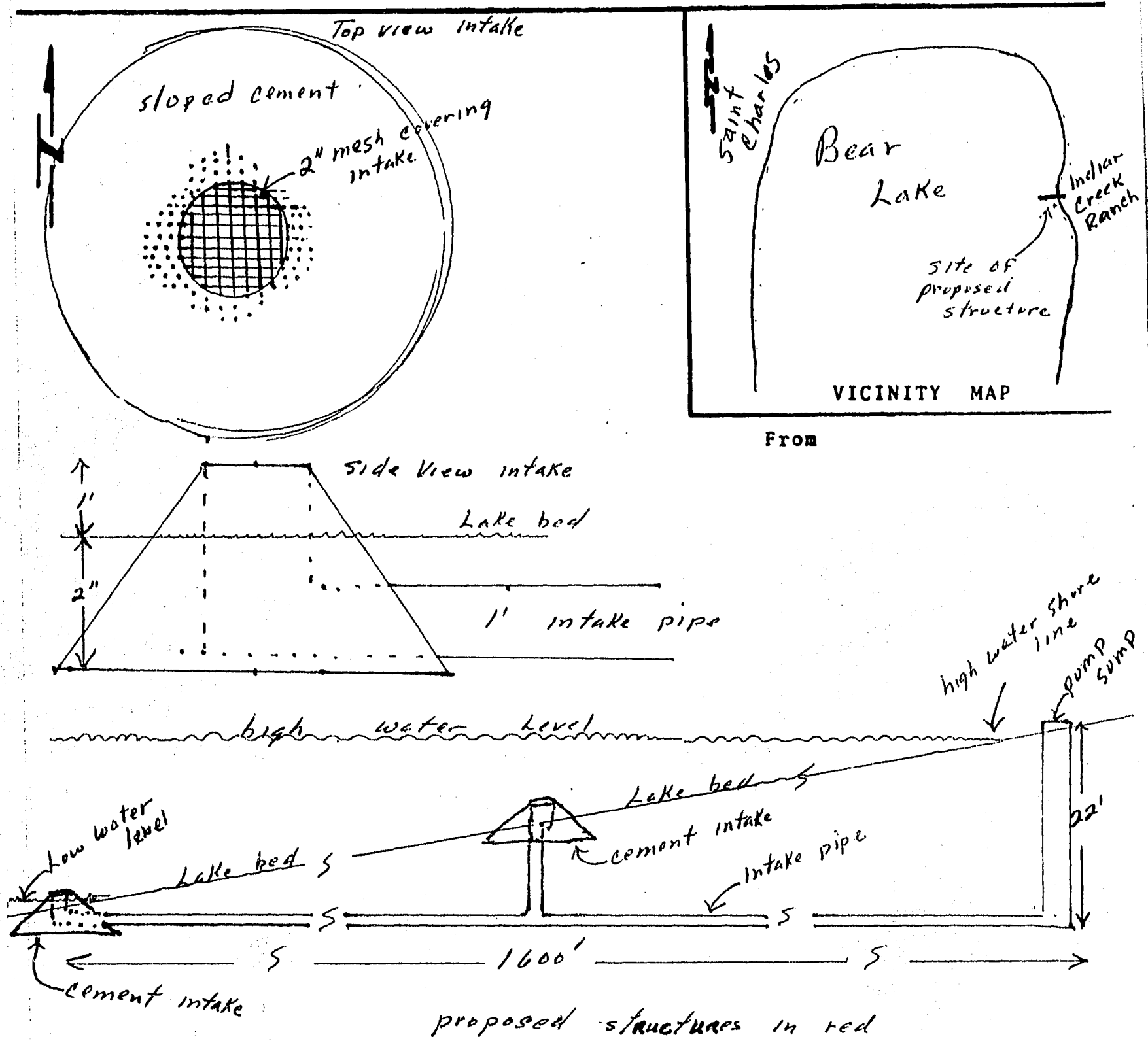
Volume of material to be placed: 4,740 (cubic yards)

Will excavation be required? yes Disposal Site Location: replaced in trench

Method of diverting flow, if needed: not needed

Method of controlling turbidity: all work (except west 20') will be done on dry shore

7. Size and Capacity of proposed bridge or culvert and area of drainage served (sq. miles): N/A
(Idaho Department of Water Resources requirement.)



DATUM PLANE: IF NOT NGVD 1929, SPECIFY

- HIGH WATER
- LOW WATER

IN Bear Lake County
IN/NEAR Indian Creek Ranch
N.E. Corner Bear Lake
COUNTY, Bear Lake
DATE: 16 Feb 1995 SHEET 1 OF
APPLICATION BY: Conrad H. Nebeker

IDAHO DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENTS

Required when applying for an Idaho
Department of Lands Lake Encroachment Permit

"Joint Applications" for encroachments must be submitted and signed by the riparian landowner or his lessee. The application must include the exact legal description of the upland property. A riparian owner is the person whose upland property extends to the ordinary high water mark of the waterway. The application must be accompanied by a vicinity map showing the precise location of the proposal, design drawings showing distances to adjacent property boundaries, names of adjacent landowners, exact encroachment dimensions, water depth and lakebed profile, all related to the ordinary high water marks. A sample of acceptable drawings is shown on page 9 of the pamphlet.

Docks should be installed at right angles to the general shoreline, should not extend beyond a depth necessary for customary navigation, cannot exceed 700 square feet in size or 10 feet in width (excepting the overall width of a dock with a slip cutout), and may not be closer than 10 feet to adjacent boundaries as extended into the water perpendicularly from the general shoreline. If the proposal is closer than 10 feet from adjacent property lines, written consent of the adjacent riparian landowner must be obtained below:

I, Sharon Lewis
Conrad H. Albrecht, am the owner of
riparian or littoral property adjacent to the property
listed in this application. I am familiar with the scope
and location of the proposed encroachment as evidenced by
accompanying plans which I have initialed. I offer no
objection to the encroachment.

16 Feb 1993
Date

Sharon Lewis
Name

2826 Pierce Ave, Ogden, Ut.
Address 84403

I, _____, am the owner of
riparian or littoral property adjacent to the property
listed in this application. I am familiar with the scope
and location of the proposed encroachment as evidenced by
accompanying plans which I have initialed. I offer no
objection to the encroachment.

Date

Name

Address



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

April 29, 1993

Conrad Nebeker
2554 Monroe
Ogden, UT 84401

Mr. Nebeker:

Enclosed is a revised application for transfer based on the original submitted and received on April 26, 1993. The following items need to be completed. Line A2 needs a description of the reason for the change. Your original statement of allowing for year around use is not acceptable. The irrigation season is from 4-15 to 10-15 each year in your general area.

Line 3A (map) should show the outline of the irrigated ground or an air photo (ASCS) should be submitted with the ground distinctly shown. Finally you will need to sign and have this new application notarized.

Several required additions have been made to the application. This includes the yellow highlighted areas throughout the application. If you have any questions about this please give me a call.

I will need you to send the completed application back to me so processing can continue.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/jrg

Enclosure

10-May-1993

CONRAD NEBEKER
2554 MONROE
OGDEN UT 84401

Dear Dr. Nebeker:

I received your signed application (new version) for transfer and measured the acres outlined on the enclosed map. This total is 68 acres. If this indeed is the traditionally irrigated place of use then I will have to change the transfer from 117 acres to 68 acres.

A field agent from this office will check ASCS overflights to try to confirm actual acres and will do an on site exam. If you have additional information that will alter the acreage amount, you will need to contact me as soon as possible.

Sincerely,

HAROLD W. JONES
Water Right Supervisor

HWJ/rb
~~enclosure~~

MEMORANDUM

To: Harold Jones
From: Paul Meyer
Date: 20 May 1993

RE: Measurement of Indian Creek for Transfer of 11-00245

As per your request, on 12 May 1993, I conducted a transfer examination on water right 11-00245 from Indian Creek in Bear Lake County held by Conrad Nebeker.

Mr. Nebeker's diversion system consists of two pipelines which divert from Indian Creek. The uppermost pipeline lies in the natural creekbed for some distance and then follows an old ditch to farmland on a bench above and east of the road along Bear Lake. At the time of the examination, the pipeline was in serious need of repair. The diversion leaked badly. As the pipeline left the creek channel, it had frozen and broken allowing all flow to fall back into the creek.

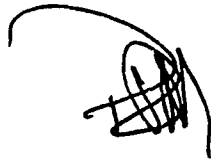
The second diversion is located a little ways downstream at an old dam which appeared to have historically held water in a small reservoir for irrigation of the farm's lower fields and pastures. It was apparent the reservoir had not been used for several years. All water in the creek is diverted into a pipeline from the old headgate in the dam that controlled outflow from the reservoir. The pipeline carries the water to a old ditch that flows down into a piece of pastureland just east of the road. The natural creek channel is dry below the dam and pipeline.

Since there is a significant drop from the pipeline to the ditch and all creekflow has been diverted into the pipeline, I chose this location for the stream measurement. There was no need to use the current meter. Flow was low enough that I could easily use a five-gallon bucket and stopwatch.

Three measurements were conducted:

Measurement #		Seconds	GPM	CFS
1	5 gallons in...	3.1	96.8	0.215
2	"	3.5	85.7	0.190
3	"	3.4	88.2	0.196

The most liberal measurement indicates total creekflow at 0.215 cfs; less than 1/10 of the 2.35 cfs recorded in 11-00245.



NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
TRANSFER NO. 4150

Notice is hereby given that Conrad H. Nebeker has applied to the Department of Water Resources to change point of diversion & source of the waters of Bear Lake. The right sought to be changed is evidenced by decree and recorded as follows:

Decree No. 11-00245 Decreed to Edwin A. Austin in case of Austin vs. Curless dated 4-5-1927.

SOURCE: Indian Creek tributary to Bear Lake

AMOUNT: 2.35 cfs PRIORITY: 4/1/1898

POINT OF DIVERSION: not specified in decree

The water is used to irrigate 117.7 acres within the SESW SEC 24 NENE (LOT 6) NWNE (LOT 2) SWNE (LOT 3) SEC 25 T15S R44E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the Bear Lake within the SENW (LOT 3) SEC 25 T15S R44E, BEAR LAKE and used to irrigate 68 acres within the SESW (LOT 7) SEC 24 W1/2NE NENW (LOT 2) SENW (LOT 3) NESW (LOT 6) SEC 25 T15S R44E, B.M.

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID, 83402, on or before June 14, 1993.

R. Keith Higginson
Director

Published in the News Examiner on May 27 & June 3, 1993.

21-May-1993

NEWS EXAMINER
PO BOX 278
MONTPELIER ID 83254

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before June 14, 1993.

Yours truly,

Rita Bodell
Secretary/Office Coordinator

Encl.

21-May-1993

CONRAD H NEBEKER
2554 MONROE
OGDEN UT 84401

RE: Application for Transfer of a Water Right No. 11-00245

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your permit for a water right transfer. This office is currently in the process of advertising the application in the News Examiner on May 27 & June 3, 1993. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a transfer is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ:rb

21-May-1993

IDAHO DEPT OF LANDS
3563 RIRIE HWY
IDAHO FALLS ID 83401

RE: Application No. 11-00245

Dear Sir:

We are enclosing a copy of the application(s) that may be of interest to your department. Please review the application(s) and submit any comments you may have to our Department as soon as possible. The last date of protest is June 14, 1993 , and we are required to take final action shortly thereafter.

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

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ:rb
enc

21-May-1993

WILL PITMAN
IDAHO DEPT OF LANDS
1910 NW BLVD STE 201
COEUR D'ALENE ID 83814

RE: Application No. 11-00245

Dear Sir:

We are enclosing a copy of the application(s) that may be of interest to your department. Please review the application(s) and submit any comments you may have to our Department as soon as possible. The last date of protest is June 14, 1993, and we are required to take final action shortly thereafter.

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

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ:rb
enc

21-May-1993

PETE PETERSON
WATER DIST 11
2483 RIVERDALE RD
PRESTON ID 83263

RE: Application No.'s

Dear Watermaster:

Please find enclosed a copy of the above referenced application.
Please review the application and submit any comments you may
have to our Department as soon as possible.

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

Thank you for your cooperation in this matter.

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ:rb
enc.

21-May-1993

CARLY BURTON
PACIFICORP
1407 W NORTH TEMPLE STE 195
SALT LAKE CITY UT 84140

RE: Application No. 11-00245

Dear Sir:

We are enclosing a copy of the application(s) that may be of interest to your department. Please review the application(s) and submit any comments you may have to our Department as soon as possible. The last date of protest is June 14, 1993 , and we are required to take final action shortly thereafter.

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

Respectfully submitted,


Harold W. Jones *rb*
Water Right Supervisor

HWJ:rb
enc

IDAHO DEPARTMENT OF LANDS

EASTERN IDAHO AREA
3563 RIRIE HIGHWAY
IDAHO FALLS, IDAHO 83401
Telephone 208 523-5398

STANLEY F. HAMILTON
DIRECTOR

May 25 1993
RECEIVED

JUN 01 1993

Department of Water Resources
Eastern District Office

BOARD OF LAND
COMMISSIONERS

CECIL D. ANDRUS
Governor

PETE T. CENARRUSA
Secretary of State

LARRY ECHOHAWK
Attorney General

J.D. WILLIAMS
State Auditor

JERRY L. EVANS
Sup't. of Public
Instruction

HAROLD W JONES
IDAHO DEPT OF WATER RESOURCES
900 N SKYLINE DR
IDAHO FALLS ID 83402-1718

Dear Mr. Jones:

This Department would have no objections to this transfer of water right. (Application No.11-00245)

We would offer the following observations should the transfer of source be changed to Bear Lake:

Two authorizations from the Idaho Department of Lands could be necessary for the development of any water pumping system from the lake.

1. An encroachment permit authorizing the pumping system onto or into the bed or waters of Bear Lake.
2. An easement to cover any disturbance or placement of pumping equipment on or under the surface of the bed of Bear Lake.

Sincerely,

L. D. Benedick

L. D. BENEDICK
AREA SUPERVISOR

LDB/sak

c: Will Pitman - LPAM, SE

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

No 4591

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Rosa S. Moorman
being duly sworn,

deposes and says:

That he is the Editor of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

May 27, 1993, and ending
with the issue of June 3, 1993.

Fees, \$ 51.80

Subscribed and sworn to before me this 9th day
of June, 1993.

Sherry Brown
Notary Public, Residing at Montpelier, Idaho
My Commission Expires August 15, 1997

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT TRANSFER NO. 4150

Notice is hereby given that Conrad H. Nebeker has applied to the Department of Water Resources to change point of diversion and source of the waters of Bear Lake. The right sought to be changed is evidenced by decree and recorded as follows:

Decree No. 11-00245. Decreed to Edwin A. Austin in case of Austin vs. Curless dated 4-5-1927.

SOURCE: Indian Creek tributary to Bear Lake

AMOUNT: 2.35 cfs PRIORITY: 4/1/1898

POINT OF DIVERSION: not specified in decree

The water is used to irrigate 117.7 acres within the SESW SEC 24 NENE (LOT 6) NWNE (LOT 2) SWNE (LOT 3) SEC 25 T15S R44E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the Bear Lake within the SENW (LOT 3) SEC 25 T15S R44E, BEAR LAKE and used to irrigate 68 ACRES WITHIN THE SESW (LOT 7) SEC 24 W1/2NE NENW (LOT 2) SENW (LOT 3) NESW (LOT 6) SEC 25 T15S R44E, B.M.

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before June 14, 1993.

R. Keith Higginson
Director

Legal No. 4591 — Publish May 27, June 3, 1993.

1407 West North Temple
Salt Lake City, Utah 84140
(801) 220-2000

RECEIVED

JUN 21 1993

Department of Water Resources
Eastern District Office



June 14, 1993

Idaho Dept. of Water Resources
900 North Skyline Drive
Idaho Falls, Idaho 83402

Re: Comments on Notice of Proposed Change
of Water Right - Transfer #4150

Gentlemen:

This letter is Utah Power's position regarding Conrad H. Nebeker's proposed change application to change the point of diversion from Indian Creek to Bear Lake. The attached agreement dated November, 19, 1991, is the basis for our comments.

1. We believe this proposed change is, in fact, an exchange, whereby water from Indian Creek is allowed to flow past the existing point of diversion into Bear Lake and an equivalent flow is diverted from a new diversion point in Bear Lake.
2. At times when the flow in Indian Creek is less than the required diversion from Bear Lake, Mr. Nebeker would be charged for Bear Lake storage water under the 1991 agreement.
3. Accurate measuring devices should be installed to monitor both the Indian Creek flow and the amount diverted from Bear Lake.
4. The Bear River District 11 Commissioner should administer water under this proposed plan.

If these conditions are met and the attached agreement is followed, Utah Power will not object to approval of the proposed transfer.

Very truly yours,

Carly B. Burton
Hydrological Supervisor

Attachment

cc: Conrad Nebeker
Pete Peterson



ONE UTAH CENTER

201 SOUTH MAIN • SUITE 2100 • SALT LAKE CITY, UTAH 84140-0021 • (801) 220-4603 • (801) 220-4646 (FAX)

HARRY A. HAYCOCK
Executive Vice President
POWER SUPPLY

November 19, 1991

Post-It™ brand fax transmittal memo 7671		# of pages = 3	
To	Carly Burton	From	H.A. Haycock
Co.	Utah Power & Light	Co.	UP&L
Dept.	Hydrology	Phone #	208-525-7161
Fax #	801-220-4748	Fax #	

Dr. Conrad Nebeker
2554 Monroe
Ogden, Utah 84407

Dear Dr. Nebeker:

By this letter agreement, Utah Power & Light Company (UP&L) hereby agrees to lease supplemental Bear Lake storage water to Conrad Nebeker (Irrigator) under the following terms and conditions:

1. Irrigator has an existing water right on file or pending with the Idaho Department of Water Resources.
2. Irrigator's rights are for 117.7 miners inches (2.354 CFS) under application(s) or certificate(s) as court decree stated on file with the Idaho Department of Water Resources. Irrigator's water rights are for 117.7 acres of irrigated farmground located on Indian Creek near its confluence with Bear Lake. UP&L makes no claim to irrigator's water rights granted by the Department of Water Resources, and UP&L shall not interfere with or disrupt irrigator's lawful use in priority of its water rights in any manner whatsoever.
3. By April 1 of each year, UP&L will determine the amount and cost of Bear Lake storage water available for lease.
4. Irrigator will use Bear Lake storage water by exchange and will be limited to the flow from Paragraph #2 above or the measured flow in Indian Creek, whichever is less. When diversions from Bear Lake are less than or equal to the irrigator's rights or the flow from Indian Creek, whichever is less, there will be no charge for Bear Lake storage water.
5. Periodically, irrigator may require water from Bear Lake which is in excess of the flow in Indian Creek. At such times, irrigator will be required to purchase Bear Lake storage water under the terms and conditions specified in this letter agreement.
6. The amount of available storage water will vary from year to year based on the level of Bear Lake on April 1, the forecasted runoff, and general water supply as determined by UP&L. If Bear Lake level falls below 5,910.0 on April 1 and the projected water supply is

deficient based on the forecasted spring runoff, no storage water will be available for lease.

7. The cost will vary from year to year and will be equal to the cost to replace the lost energy from UP&L's hydro plants on the Bear River. For 1991, the cost will be \$10.10 per acre foot for any storage water diverted upstream from UP&L's Soda Plant.
8. Irrigator will, by May 1, request in writing the amount of Bear Lake storage water required for operation that year. All requests should be mailed to: Attention: Hydrology Supervisor, Room 195, 1407 West North Temple, Salt Lake City, Utah 84140.
9. If total requests exceed the available supply, the amounts granted to individual irrigators will be prorated based on the following formula:

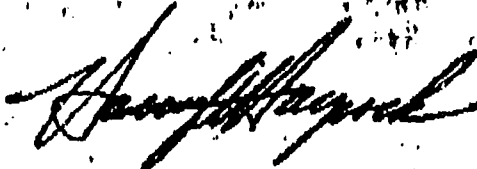
Individual water right divided by total water rights
subscribed to times total available supply.
10. The District 11 Bear River Commissioner for Idaho, appointed each year by the Idaho Department of Water Resources, will deliver Bear Lake storage water to irrigator.
11. The Commissioner will determine the actual amount of storage water diverted by irrigator and will submit a report to UP&L at the end of irrigation season.
12. UP&L will render a billing to irrigator showing the amount of storage water used and the cost at the end of each irrigation season no later than December 1.
13. Irrigator will make payment to UP&L prior to March 1 of the following year and prior to receiving supplemental storage water the following year.
14. Storage water made available by this agreement cannot be subleased to another party. The storage water shall be used for supplemental irrigation purposes only. If irrigator sells the irrigated farmland during the term of this agreement, this agreement may be transferred to the buyer of the irrigated farmland if:
 - a. The land will continue to be used as irrigated farmland and Bear Lake storage water used as a supplemental irrigation source, and
 - b. Irrigator's water rights for use on the irrigated farmland are also transferred to the buyer.

November 19, 1991
Page 3

15. Irrigator understands and agrees that UP&L will use its best efforts to deliver the storage water, but further agrees to release and hold UP&L harmless from any and all liability, loss, or damage resulting from the interruption or discontinuance of the delivery of storage water.
16. Irrigator's right to receive storage water under this agreement will not be construed as a water right or a right to claim a firm allocation of UP&L's storage water in Bear Lake. To the extent that UP&L makes its Bear Lake storage water available to irrigators by contract, the Idaho District II Bear River Commissioner shall deliver Bear Lake storage water to irrigators in priority of contract dates.
17. This letter agreement shall remain in effect until notice of cancellation by either party giving one year's notice.

If you agree with the terms in this agreement, please sign both originals in the space provided, keep one for your record, and return one to Utah Power & Light Company, Attention: Carly Burton, 1407 West North Temple, Salt Lake City, Utah 84140.

Very truly yours,



ACCEPTED BY:


Irrigator

CBB3:cms

Attachments

TER-DEPARTMENT MEMO — 1

FROM DAVE WALRATH

DATE 6/21/93

TO FILE

SUBJECT INSPECTION OF INDIAN CR.

ON JUNE 15, 1993, ROB BROCHU OF THE CORPS OF ENGINEERS AND I INSPECTED THE ALTERATIONS MADE TO INDIAN CREEK UPSTREAM FROM NEBEKE'S FARM. APPROXIMATELY $\frac{1}{4}$ MI UPSTREAM FROM THE PAVED ROAD WAS AN OLD EARTHEN DAM. IT WAS NOT IMPOUNDING WATER, BUT ALL THE FLOW IN THE STREAM WAS DIVERTED INTO A PIPELINE JUST BELOW THE OLD DAM. AS WE CONTINUED UPSTREAM WE DISCOVERED AN UNDERGROUND PVC PIPE W/ FLOWING WATER IN IT SOUTH OF THE STREAM CHANNEL, UP ON THE SIDE HILL. IT WAS DIVERTED INTO THE PIPE ABOUT $\frac{1}{3}$ MILE UPSTREAM. WE FOUND ANOTHER UNDERGROUND PIPELINE ON THE NORTH SIDE OF THE STREAM WITH ITS DIVERSION POINT SOMEWHERE BETWEEN THE OTHER TWO. AN EXPOSED BREATHER VALVE WAS MAKING NOISE AS IT RELEASED AIR. (THE NOISE IMMEDIATELY LED US TO ITS LOCATION)

DCW

SIGNATURE

FROM: H.W. JONES
TO: TR. #4150/11-00245
CONRAD NEBEKER

THIS TRANSFER SEEKS THROUGH TRANSFER TO ADD A PD AND SOURCE FROM BEAR LAKE. APPLICANT HAS A STORAGE WATER CONTRACT WITH UTAH POWER AND LIGHT (SEE IN FILE) TO PUMP WATER FROM BEAR LAKE WITH CONDITIONS. SOME OF THE QUESTIONS ARE;

- 1/ DOES APPROVAL OF THIS TRANSFER ALLOW AN **IMPROVEMENT** IN THE WATER RIGHT BY ALLOWING THE USE OF A MUCH MORE DEPENDABLE SOURCE.
- 2/ SINCE THE APPLICANT AGREED THAT THE IRRIGATED ACRES COVER AN AREA OF 68 ACRES RATHER THAN 117 ACRES, SHOULD NOT THE CFS BE REDUCED ACCORDINGLY TO 1.36 CFS.

PAUL MEYER DID AN ORIGINAL INSPECTION ON MAY 12, 1993 TO SEE IF THE FLOWS OF INDIAN CREEK REACHED BEAR LAKE IN SUFFICIENT QUANTITY TO ALLOW AN EXCHANGE/TRANSFER OF AN AMOUNT FROM BEAR LAKE OF 1.36 CFS - 2.35 CFS. PAUL ONLY FOUND 0.21 CFS REACHING BEAR LAKE. HOWEVER A LATER INSPECTION ON JUNE 15, 1993 BY DAVE WALRATH FOUND THAT SEVERAL DIVERSIONS WERE BEING MADE UPSTREAM BY MR. NEBEKER FOR IRRIGATION. I FEEL THIS AMOUNT WAS MISSED IN PAUL'S INSPECTION AND IF THE DIVERSIONS ON INDIAN CREEK WERE ABANDONED IN FAVOR OF THE BEAR LAKE PUMP THEN A MUCH GREATER FLOW WOULD REACH THE LAKE FROM INDIAN CREEK.

IF THIS TRANSFER WERE TO BE APPROVED THEN THE FOLLOWING CONDITIONS SHOULD BE PART OF THE CONDITION PACKAGE.

- A/ MEASURING DEVICES OF A TYPE APPROVED BY THIS DEPT. SHALL BE MAINTAINED AT THE POINTS OF DIVERSION.
- B/ USE OF WATER UNDER THIS RIGHT IS SUBJECT TO CONTROL BY THE WATER MASTER OF WATER DISTRICT 11, BEAR RIVER.
- C/ AT TIMES WHEN THE PUMP IN BEAR LAKE IS BEING USED, ONLY STORAGE WATER FROM THE UP&L CONTRACT SHOULD BE ASSESSED TO THAT DIVERSION. INDIAN CREEK WATER WILL ONLY BE TAKEN FROM THE P.D. IN L-1, NENE SECT. 25 T15S 44E.



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 13, 1993

CONRAD NEBEKER
2554 MONROE
OGDEN UT 84401

RE: Transfer of Water Right No. 11-00245

Dear Water Right Holder(s):

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 4150). Please be sure to review the "CONDITIONS/REMARKS:" as listed on the transfer.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jim Johnson', written over the typed name and title.

JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosure