

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 3739APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

APPROVED

Name of applicant Francis R. Kukachka Phone 547-3837Post Office address 17 Old Oregon Rd. Soda Springs, ID 83276

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 _____
2. Describe the reason for the proposed changes New point of diversion is adjacent to my ground.
I would pump directly out of the creek rather than take water from the Higley - Body
ditch.

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>11-00370</u>	<u>May 1, 1891</u>	<u>0.005</u>	<u>Irrigation</u>	<u>4-20</u> to <u>9-30</u>
<u>11-00371</u>	<u>May 1, 1901</u>	<u>0.011</u>	<u>Irrigation</u>	<u>4-20</u> to <u>9-30</u>
<u>11-00372</u>	<u>May 1, 1908</u>	<u>0.06</u>	<u>Irrigation</u>	<u>4-20</u> to <u>9-30</u>
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 0.08 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Bailey Creek tributary to Bear River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	NW	5	10S	42E	Bear Lake	

5. 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	
10S	42E	5					4												4
							L-3												

Total acres 4

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Transfer No. 3739

PART 1

6. General Information:

a. Description of diversion system 1 HP pump in creek with 1½" line to place of use.

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:

NA

d. Remarks:

Most of the irrigable land in Sect. 5 is now subdivided. Irrigation on those lands
is from wells. I wish to continue to irrigate my pasture from Bailey Creek.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 11-0370/0371/0372

And said application is hereby APPROVED, subject to the following limitations and conditions:

1. Use of water under these rights are subject to control by the watermaster of State

Water District No. 11A, Bailey Creek.

2. These rights when combined shall provide no more than 3.0 afa per acre for the lands

above.

Witness my hand this

30th

day of

August

, 19 90

H. Glen Saylor
Chief, Water Alloc. Bureau

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. 11-00371 Decreed to Harvey W. Higley
in case of Utah Power and Light Co. vs. Last Chance Canal Co.
dated 7-14-1920 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 Bailey Creek tributary to Bear River4. Date or priority May 1, 1901

5. Water is used for the following purpose:

amount 0.70 cfs for Irrigation purposes from 4-20 to 9-30
(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 0.70 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
		NW	SW	5	10S	42E	Bear Lake	Rhinehart - Hopkins Ditch
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch

8. 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	
10S	42E	5					A	A	A	A	A			A					250

Total acres 2509. Describe any other water rights used for the same purpose as described above 11-00370, 11-00372

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 0.011 for Irrigation purposes from 4-20 to 9-30
(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
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch

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	
10S	42E	5					4												4

Total acres 4**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 0.689 for Irrigation purposes from 4-20 to 9-30
(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
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch
		NW	SW	5	10S	42E	Bear Lake	Rhinehart - Hopkins Ditch

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	
10S	42E	5					A	A	A	A	A			A					246

Total acres 246

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. 11-00372 Decreed to Harvey W. Higley
In case of Utah Power and Light Co. vs. Last Chance Canal Co.
dated 7-14-1920 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 Bailey Creek tributary to Bear River4. Date or priority May 1, 1908

5. Water is used for the following purpose:

amount 4.0 for Irrigation purposes from 4-20 to 9-30
(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 4.0 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
		NW	SW	5	10S	42E	Bear Lake	Rhinehart - Hopkins Ditch
		SW	SW	5	10S	42E	Bear Lake	Higley and Body Ditch

8. 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	
10S	42E	5					A	A	A	A	A			A					250

Total acres 250

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

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 0.06 for Irrigation purposes from 4-20 to 9-30
(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
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch

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	
10S	42E	5					4												4

Total acres 4**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 3.94 for Irrigation purposes from 4-20 to 9-30
(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
		SW	SW	5	10S	42E	Bear lake	Higley - Body Ditch
		NW	SW	5	10S	42E	Bear lake	Rhinehart - Hopkins Ditch

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	
10S	42E	5					A	A	A	A	A			A					246

Total acres 246

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. 11-00370 Decreed to Harvey W. Higley
 in case of Utah Power and Light Co. vs. Last Chance Canal Co.
 dated 7-14-1920 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 Bailey Creek tributary to Bear River
4. Date or priority May 1, 1891
5. Water is used for the following purpose:
 amount 0.30 cfs for Irrigation purposes from 4-20 to 9-30
 (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 0.30 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
		NW	SW	5	10S	42E	Bear Lake	Rhinehart - Hopkins Ditch
		SW	SW	5	10S	42E	Bear Lake	Higley and Body Ditch

8. 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	
10S	42E	5					A	A	A	A	A			A					250

Total acres 250

9. Describe any other water rights used for the same purpose as described above 11-00371, 11-00372

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 0.005 cfs for Irrigation purposes from 4-20 to 9-30
(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	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch

3. 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	
10S	42E	5					4												4

Total acres 4**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 0.295 for Irrigation purposes from 4-20 to 9-30
(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	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SW	5	10S	42E	Bear Lake	Higley - Body Ditch
		NW	SW	5	10S	42E	Bear Lake	Rhinehart - Hopkins Ditch

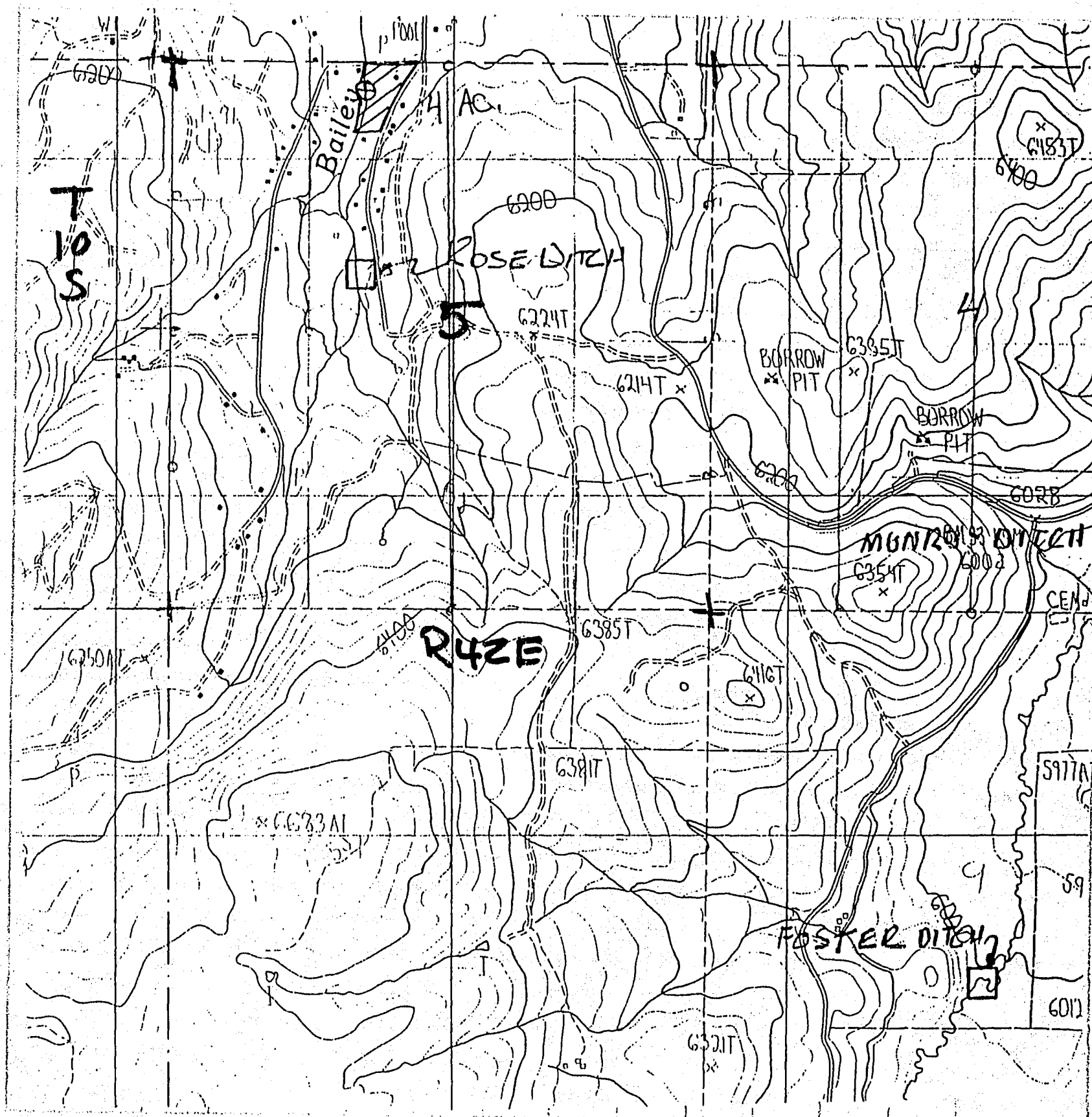
3. Lands irrigated or place of use:

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	
10S	42E	5					A	A	A	A	A			A					246

Total acres 246

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.

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Transfer No. 3739

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				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.

Francis R. Kubacka
(Signature of Applicant)

Subscribed and sworn to before me this 14th day of June, 19 90

Jo Ann L. Rhodes
(Notary Public)

My commission expires 2-19-91

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by Bul Date 6-15-90 Protest filed by _____

Prelim. check by BMD Fee 3000 # E014847

Received by HWT Date 6-15-90

Published in Caribou Cnty Press Copies of protest forwarded by _____

Pub. dates 7-19-90 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☒ approval ☐ denial

_____ rec'd. _____ by Rac

Copy of transfer sent to lien holder _____

This is a duplicate copy
made of the original because
of the poor quality of orig. from wear & tear.
11-L
Numbered Copy

Original can be found in this same file.

In the District Court of the United States for the
District of Idaho, Eastern Division.

UTAH POWER & LIGHT COMPANY,

Plaintiff

vs.

THE LAST CHANCE CANAL COMPANY,

Limited, et. al.

Defendants.

In Equity

No. 203.

FINAL DECREE

Before HON. F. S. DIETRICH,
District Judge.

Filed July 14, 1920.

W. D. McREYNOLDS,

Clerk.

By PEARL ZANGER,

Deputy.

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff*,

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited, corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

DATE OF PRIORITY	AMOUNT IN SECOND FEET	POINT OF DIVERSION AND PLACE OF USE
1 0366 (d) Through the 5 ditches here- inabove described. 1912—May 15	1.5 c.f.s.	For the irrigation of 75 acres of land in the East half of the Southwest quarter, the Northwest quarter of the Southeast quarter, and the Northeast quarter of the Northeast quarter and the South half of the Northeast quarter of Section 20, and the Southwest quarter of the Southwest quarter of Section 16, all in Township 10 South, Range 42 East.

Largilliere Ditch, diverting from said Eight Mile Creek in the Southwest quar-
ter of the Southwest quarter of Section 16, Township 10 South, Range 42 East, B.M.
The following parties are entitled to divert through said ditch, with priorities and
in the amounts hereinbelow set forth:

64. <i>Largilliere Company, Ltd., a Cor- poration:</i> 1 0367 1894—May 1	0.2 c.f.s.	For the irrigation of 10 acres of land in the Northeast quarter of the Southwest quarter of said Section 16.
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BAILEY CREEK

65. <i>Idaho Ranch Company, Ltd.:</i> 1 0368 (a) 1891—May 1	0.6 c.f.s.	To be diverted from said stream through the Higley & Body ditch diverting there- from in the Southwest quarter of the Southwest quarter, Section 5, and the Rhinehart ditch diverting therefrom in the Northeast quarter of the Northwest quar- ter, Section 5, Township 10 South, Range 42 East, B.B.M.
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1 0369 (b) 1896—May 1	0.24 c.f.s.	To be diverted from said stream on the West side thereof in the Southeast quarter of the Northeast quarter of Section 7, said Township and Range. Water diverted in paragraphs (a) and (b) immediately above, is to be used for the irrigation of 42 acres of land in the South half of the Southwest quarter, Section 32, Township 9 South, Range 42 East, and the South half of the Southwest quarter of Section 5, and the South half of the Southeast quarter and the Northwest quarter of the Northwest quarter, Section 8, Township 10 South, Range 42 East, B.M.
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66. <i>Harvey W. Higley:</i> 1 0370 1891—May 1	0.3 c.f.s.	To be diverted from said creek through either the Higley-Body ditch hereinabove mentioned or the Rhinehart-Hopkins ditch diverting therefrom in the Northwest quarter of the Southwest quarter of Sec- tion 5, Township 10 South, Range 42 East,
1 0371 1901—May 1	0.7 c.f.s.	
1 0372 1908—May 1	4.0 c.f.s.	

DEPARTMENT MEMO

AUGUST 28, 1990

FROM: BRENDA MILLER

TO: FILES 11-0371/0372

SUBJECT: TRANSFER NO. 3739

SEE FILE 11-0370 FOR ALL CORRESPONDENCE REGARDING THE
ABOVE REFERENCED TRANSFER.