

Recorded

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO: IN AND
FOR THE COUNTY OF FRANKLIN.

LARS M. RASMUSSEN and
LARS M. RASMUSSEN Jr., Plaintiffs,

-vs-

JOHN P. NIELSEN Defendant.

DECREE

In the above entitled cause, the Court having made Findings of Fact and Conclusions of Law, from which it appears that the plaintiffs have established by a preponderance of the evidence all the material allegations of their complaint, and that they are entitled to a decree of this court adjudging them to be the owners, in possession, and entitled to the possession of two cubic second feet of the waters of Weston Slough in Franklin County, Idaho, as of priority of June, 1877, and that defendant has no right or interest in or ^{to} any of the waters of said Weston Slough superior to, or adverse to the rights of said plaintiffs, and that said defendant should be debarred and enjoined from asserting any claim in or to any of the waters of said Weston Slough adverse to the rights of said plaintiffs; and the Court being fully advised in the premises;

13 0138 Now, Therefore, it is hereby ordered, adjudged and decreed that the plaintiffs are the owners, in possession and entitled to the ^{pos-}session of two cubic second feet of the waters of Weston Slough in Franklin, County, Idaho, as of priority of June, 1877, appurtenant to the West half of the Southwest quarter, the Southeast quarter of the Southwest quarter, and the Southwest quarter of the Southeast quarter of Section 17, in Township 16 South, Range 39 East of the Boise Meridian in Idaho, and that defendant be and he is hereby enjoined and debarred from ever asserting any claim in or to any of the waters of said Weston Slough adverse to the rights of said plaintiffs in and to said two cubic second feet of the waters of said Weston Slough.

That plaintiffs have and recover from the defendant their costs

RECORDED
MAY 14 1906

in this action expended.

Dated April 12th, 1921.

Robert M. Terrell,

District Judge.

Filed this 16th day of April, 1921, and recorded in Book "1" of Judgments,
at page 419, of the records of Franklin County, Idaho.

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RECEIVED

MAY 14 1996

Franklin County Assessors Office
51 West Oneida
Preston, Idaho 83263
208-852-1091
208-852-1094 (fax)

Attention: Keith Wilson

Fax # 525-7177

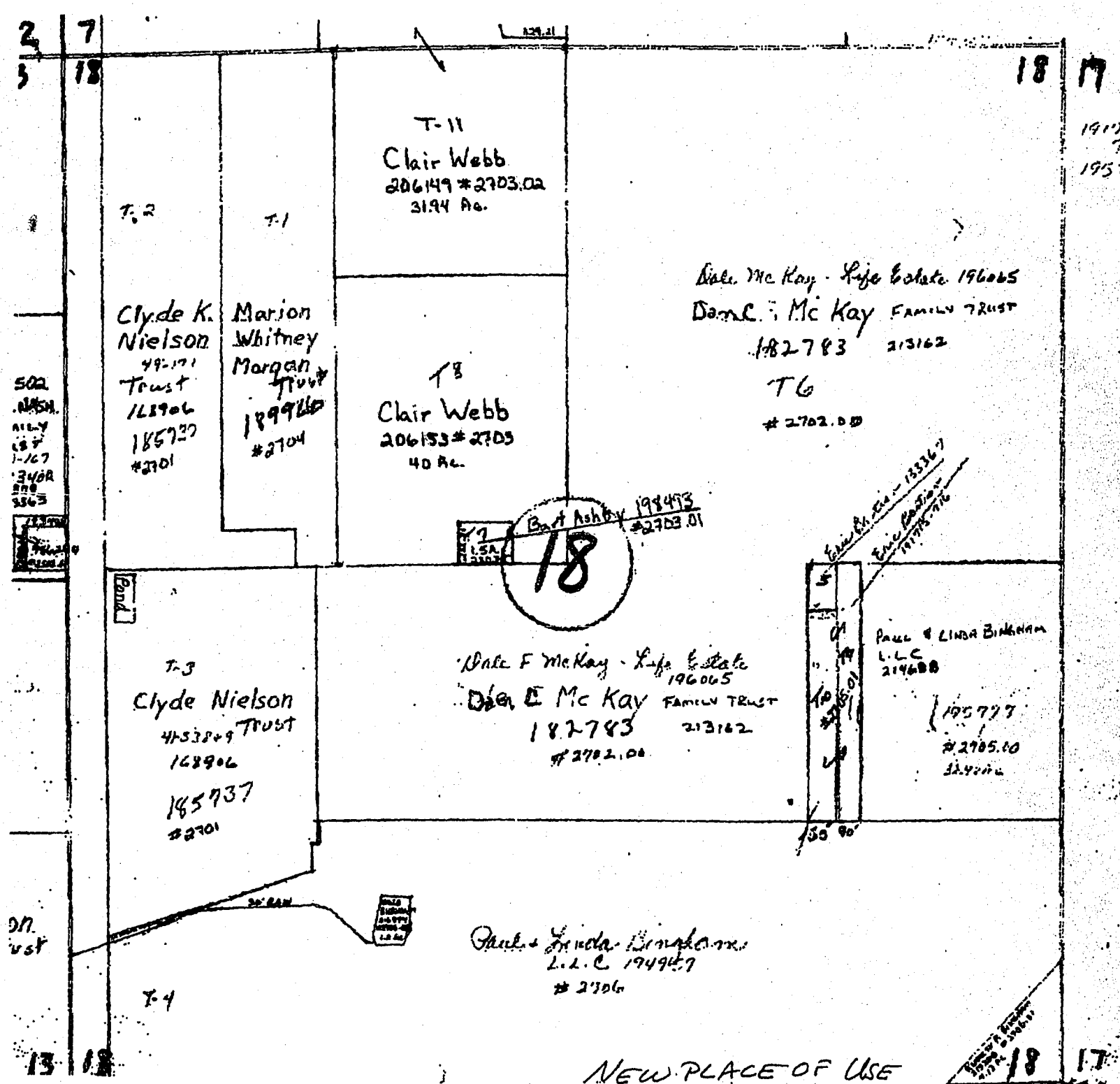
From: Helen

Total Number of Pages (including cover sheet) 2

If problems with transmission, please call the above number.

T16S, R39E, 18
Transfer 70217
NEW PLACE OF USE

SCANNED
JAN 14 2003



T16S R39E Sec18

SCANNED
JAN 14 2003

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. E-886 P.C.

This proof is for Beneficial Use

In Water District No.

1. Name of applicant: George E. Mylroie

2. Source of water supply: Water from Weston Creek and its tributaries is stored in Reservoir
8.318 mi. E. 3879 feet distant from SE corner of

3. Location of point of diversion: Is in the of Section 15

T. 15 S. R. 37 E. S. 34 E. Co. 10 N. Onaida

4. Describe works as they exist, giving dimensions and capacities of same:

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion:

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

6215 acres of land in Idaho and 656 acres of land in Utah, situated in Sections 30, 31, 34 and 35, in Twp. 15 South, Range 38 E., B.M. Section 25 in Twp. 15 S., Rge. 37 E., B.M., Sections 2, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 24 and 25 in Twp. 16 S., Rge. 38 E., B.M., Sections 18, 19, 20 in Twp. 16 S., Rge. 39 E., B.M., Section 33, Twp. 15 North, Rge. 1 W., Salt Lake Meridian, and Sections 4 and 5, Twp. 14 N., Rge. 1 W., Salt Lake Meridian.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks:

This examination was made on the 2 day of August, 1937

(Signed) E. H. Humphrey

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1550

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|--------------------------|---------------------|
| 1. E. Coburn | 49. J. Founesbeck |
| 2. Atkinson | 50. Earl Anderson |
| 3. E. Lemmon | 51. F. Nielson |
| 4. Geo. Kofoed | 52. P. Maughan |
| 5. Earl Coburn | 53. H. Rasmussen |
| 6. E. Malan | 54. County |
| 7. Le Roy Jones | 55. A. Jensen |
| 8. Earl Coburn | 56. Nephil Jensen |
| 9. John Schwartz | 57. H. Davis |
| 10. Geo. Coburn | 58. M. Olsen |
| 11. John Schwartz | 59. A. T. Maughan |
| 12. Geo. Coburn | 60A. A. L. Bambrugh |
| 13. John Schwartz | 61. V. Burton |
| 14. Alvin Maughan | 62. G. Bingham |
| 15. Godfrey Schwartz | 63. Ray Bingham |
| 16. J. Archibald | 64. Eldon Leavitt |
| 17. John Schwartz | 65. Marion Trosseth |
| 18. Jas. Davidson | |
| 19. Earl Lloyd | |
| 20. Le Roy Jones | |
| 21. Earl Lloyd | |
| 22. Wm. Dahle | |
| 23. Geo. Georgeson | |
| 24. S. Williams | |
| 25. R. Williams | |
| 26. George Georgeson | |
| 27. Erastus Schvaneveldt | |
| 28. Delbert Schvaneveldt | |
| 29. L. Neuenswander | |
| 30. John Binggeli | |
| 31. " | |
| 32. George Georgeson | |
| 33. A. Maughan | |
| 34. John Binggeli | |
| 35. Oscar Campbell | |
| 36. Archie Kofoed | |
| 37. L. Schvaneveldt | |
| 38. Henry Miller | |
| 39. Arnold Pearson | |
| 40. Ruben Buttars | |
| 41. A. Neuenswander | |
| 42. S. Maughan | |
| 43. Sarah Kofoed | |
| 44. L. Schvaneveldt | |
| 45. Niels Bastian | |
| 46. H. Rasmussen | |
| 47. R. Hohnson | |
| 48. Earl Anderson | |

Earl Butters

J. Founesbeck
BCA

Water Rights

~~PLACE OF USE~~ ON LAND WATER
RIGHTS TO BE TRANSFERRED TO
(PART 1, Item 8.5)

Owner(s)
TWIN LAKES CANAL CO
TWIN LAKES CANAL CO

TWIN LAKES CANAL CO
TWIN LAKES CANAL CO

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Volume(af)	Source	Water Use(s)
13	896	B	Decreed	1882-05-01	4		MINK CREEK	IRRIGATION
13	901		Decreed	4/1/1901	300		MINK CREEK	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE
13	946	B	Decreed	5/6/1911	9.95	3611.7	DEEP CREEK	IRRIGATION
13	7481			12/6/1990	10		DEEP CREEK	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE

Weston Creek IRRIGATION CO WATER RIGHTS

<u>Basin</u>	<u>Sequence</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(af)</u>	<u>Source</u>	<u>Water Use(s)</u>
13	948	Decreed	1868-05-01	15		WESTON CREEK	DIVERSION TO STORAGE, IRRIGATION
13	949	Decreed	1885-05-01	25		WESTON CREEK	DIVERSION TO STORAGE, IRRIGATION
13	2293	License	11/29/1952			966 WESTON CREEK	IRRIGATION FROM STORAGE, IRRIGATION STORAGE

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-2293

WATER RIGHT NUMBER: 13-2293

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WESTON CREEK IRRIGATION CO FRANKLIN, ID 83237

Priority Date: 11/29/1952

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
WESTON CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION STORAGE	/ to /		966.00 AF
IRRIGATION FROM STORAGE	/ to /		966.00 AF
	<u>Total Diversion:</u>		966.00 AF

Location of Point(s) of Diversion

WESTON CREEK	NE1/4SE1/4	Sec. 15, Twp 15S, Rge 37E, B.M.
ONEIDA County		

Place of UseConditions of Approval:Remarks:

1. General P/U WITHIN LANDS OF WESTON CREEK IRRIGATION CO.

Comments:Dates and Other Information:Dates and Other Information:

Licensed Date: 8/15/1957
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 13-948

WATER RIGHT NUMBER: 13-948

Owner Type Name and Address
Current Owner WESTON CREEK IRRIGATION CO

Priority Date: 05/01/1868

Basis: Decreed

Status: Active

Source Tributary
WESTON CREEK BEAR RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/20 to	9/30	15.000 CFS	
DIVERSION TO STORAGE	1/01 to	12/31	15.000 CFS	
	<u>Total Diversion:</u>		15.000 CFS	

Location of Point(s) of Diversion

WESTON CREEK	SW1/4SW1/4	Sec. 5,	Twp 16S,	Rge 38E, B.M.
ONEIDA County				
WESTON CREEK	NW1/4SW1/4	Sec. 5,	Twp 16S,	Rge 38E, B.M.
ONEIDA County				
WESTON CREEK	NW1/4SW1/4	Sec. 9,	Twp 16S,	Rge 38E, B.M.
ONEIDA 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	
16S	38E	4																	
16S	38E	5																	
16S	38E	8																	
16S	38E	9																	
16S	38E	10																	
16S	38E	11																	
16S	38E	12																	
16S	38E	13																	
16S	38E	14																	
16S	38E	15																	
16S	38E	16																	

DIVERSION TO STORAGE same as IRRIGATIONConditions of Approval:Remarks:

1. P/D DECREE LEGAL APPARENT ERROR P/D FROM USGS MAP. P/U INCOMPLETE AC. IRR. = 2000.
RT. INCLUDES STORED & FRESHET WATERS IMPOUNDED IN RESERVOIR. SYSTEM OF WESTON RESERVOIR CO.

Comments:Dates and Other Information:

Licensed Date:
Decreed Date: 7/14/1920
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:

Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-949

WATER RIGHT NUMBER: 13-949

Owner Type Name and Address
Current Owner WESTON CREEK IRRIGATION CO

Priority Date: 05/01/1885

Basis: Decreed

Status: Active

Source Tributary
WESTON CREEK BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/20	9/30	25.000 CFS	
DIVERSION TO STORAGE	1/01	12/31	25.000 CFS	

Total Diversion: 25.000 CFS

Location of Point(s) of Diversion

Location of Point(s) of Diversion	From	To	Diversion Rate	Annual Volume
WESTON CREEK FRANKLIN County	NW1/4SW1/4	Sec. 5, Twp 16S, Rge 38E, B.M.		
WESTON CREEK FRANKLIN County	SW1/4SW1/4	Sec. 5, Twp 16S, Rge 38E, B.M.		
WESTON CREEK FRANKLIN County	NW1/4SW1/4	Sec. 9, Twp 16S, Rge 38E, B.M.		

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	
16S	38E	4																	
16S	38E	5																	
16S	38E	8																	
16S	38E	9																	
16S	38E	10																	
16S	38E	11																	
16S	38E	12																	
16S	38E	13																	
16S	38E	14																	
16S	38E	15																	
16S	38E	16																	

DIVERSION TO STORAGE same as IRRIGATION

Conditions of Approval:Remarks:

1. P/D DECREE LEGAL APPARENT ERROR P/D FROM USGS MAP. P/U INCOMPLETE AC. IRR. = 2000.
RT. INCLUDES STORED & FRESHET WATERS IMPOUNDED IN RESERVOIR SYSTEM OF WESTON RESERVOIR CO.

Comments:Dates and Other Information:

Licensed Date:
Decreed Date: 7/14/1920
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:

Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Form 1-222 November 30, 1999

Page 1 of 8

#290

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 70217

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Rev. IDWR S.D.
1-27-2003
GB

Name of Applicant Dan McKay Farms Phone 208-747-3934
Post Office address 2105 W. 3600 S. Creston, ID 83286

2. 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 The new place of use is better
Crop ground than the original place of use

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

1. Right Number 13-138 Priority 6/61/1877 Amount (cfs/ac-ft) 1.77 cfs Nature of Use Irrigation Period of Use 4-01 * to 9-30 *

2. Total amount of water being transferred 1.77 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Creston Slough tributary to Bear River

4. Point(s) of Diversion: * AS per watermaster, Pete Peterson

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	NE	SW	NW	18	16S	39E	Franklin	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	39E	18			31	20					37.6								88.6

T 70217

SCANNED

JAN 14 2003

Total Acres 88.6

Page 2 of 8

PART 1

Transfer No. 70217

6. General Information:

a. Description of diversion system

Sump pond + pump to sprinklers

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:

Original place of use & new place of use all
have Weston Creek Irrigation shares.

d. Remarks:

Officers Are - DAN B. MCKAY
Jennette MCKAY

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

SCANNED

JAN 14 2003

T70217

T70217

Page 1

09/06/2002

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-138

WATER RIGHT NUMBER: 13-138

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LARS M RASMUSSEN
	, ID
Current Owner	LARS M JR RASMUSSEN
	, ZZ

Priority Date: 06/01/1877
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
WESTON SLOUGH	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	2.000 CFS	
	<u>Total Diversion:</u>	2.000 CFS	

Location of Point(s) of Diversion
WESTON SLOUGH

Place of Use
IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
16S	39E	17										X	X	X			X		

Conditions of Approval:

Remarks:

1. General P/D INCOMPLETE - AC. IRR. = NOT LISTED.

Comments:

Dates and Other Information:

SCANNED
JAN 14 2003

T70217

page 4 of 8

T70217

Page 2

09/06/2002

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-138

Dates and Other Information:

Licensed Date:
Decreed Date: 4/12/1921
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

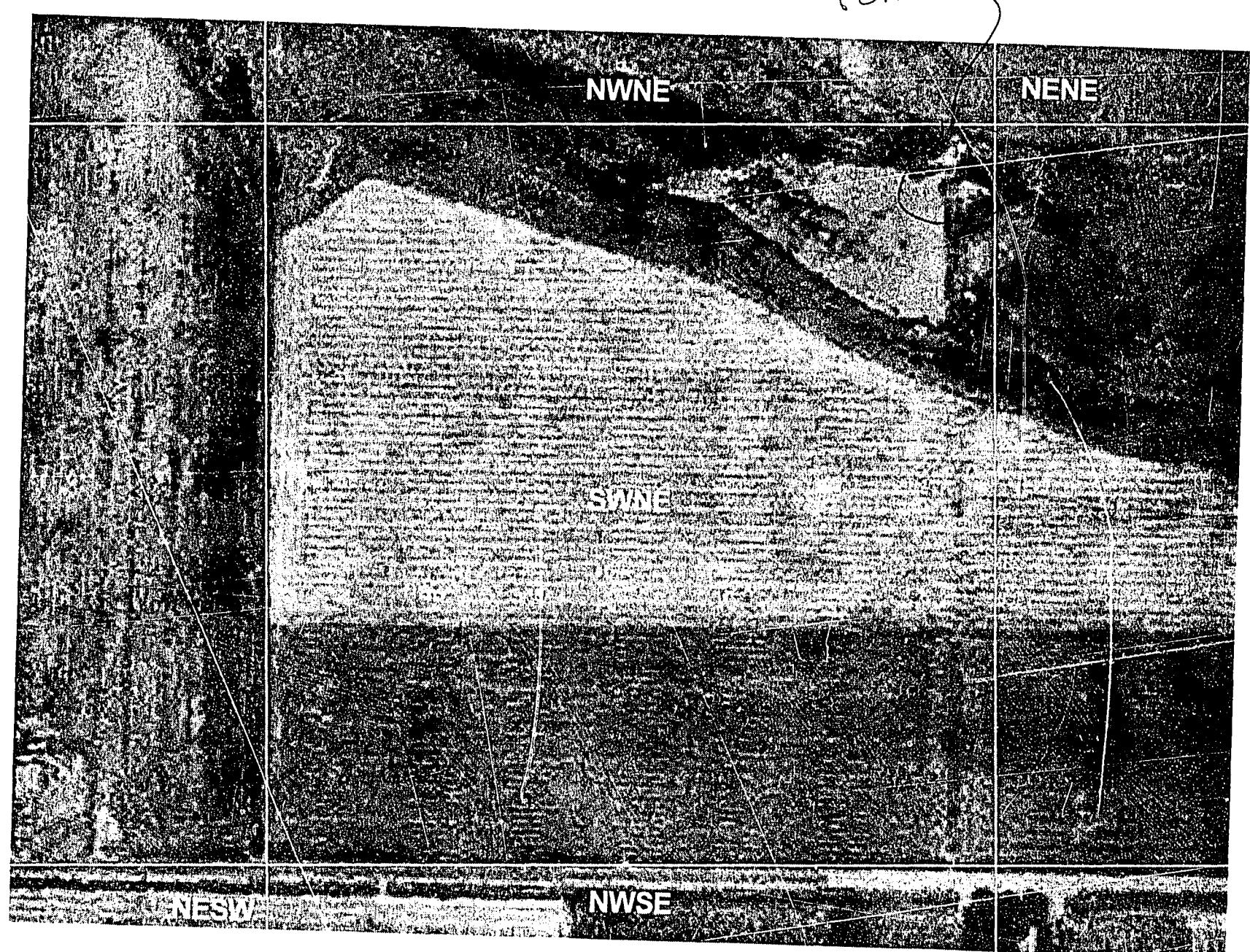
T70217

SCANNED
JAN 14 2003

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T70217

POINT OF DIVERSION



T165 R39E Sec 18, SWNE

McKay Transfer

T70217

PLANNED
JAN 1, 2000

page 6 of 8

T70217

T70346

4A
162
CRP
98-07

4B
42
CRP
98-07

1399

DAN MCKAY
POINT
OF VIEW

10
21.2

19.6

31.6

T70217

SCANNED
JAN 14 2003

page 7 of 8

T70217

BEAR RIVER TRAILERS LLC

2002 W. 3600 S.
WESTON, ID 83286

PHONE: (208) 747-3004
FAX: (208) 747 3073

DATE/TIME 10-11-02 11:35 NO. OF PAGES 1

ATTENTION Harold Jones
Water Resource

I Don McKay do Agree And
Understand the water is 1" per acre
for 88.6 acres

FROM:

Don McKay

SCANNED
JAN 14 2003

T70217

PART 3

B. CHANGES IN NATURE OF USE

- | 1. | New Nature of Use | Amount(cfs/af-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:

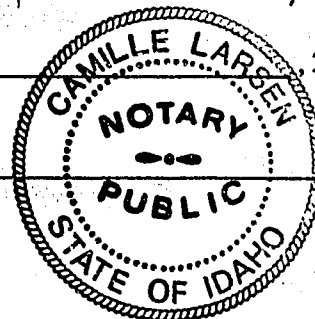
I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

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

Donna McKay Janette McKay
(Signature of Applicant)

Subscribed and sworn to before me this 20th day of Sept., 20 02.

Camille Larsen
(Notary Public)



My commission expires 06-08-07

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 2 attachments

Received by _____ Date _____ Protest filed by _____

Prelim. Check by KCW Fee 290.86

Received by HWS #E028180 Date 9-23-02

Published in Preston Citizen Copies of protest forwarded by _____

Pub. Dates Oct 30 and Nov 6, 2002 Hearing held by _____ Date _____

Watermaster recommendations requested on 10/23/02 Recommended for ☒ approval ☐ denial

_____ received SC 11/4/02 by SC

Copy of transfer sent to lien holder _____

SCANNED

JAN 14 2003

T70217

NOT ISSUED BY
AND LATE CHARGE

CHECK PAYABLE TO
FRANKLIN COUNTY INSURANCE
WEANETTE HENRY
321 WEST
MERSTON, ID 83243

TAX YEAR 2001 CODE AREA 22
2001 TAX BILL/RECEIPT
COUNTY OF FRANKLIN
STATE OF IDAHO

PARCEL #: 2691.00
STATE #: REAL PROPERTY
VALUATION
LAND 57,182
IMPRVMTS
PERS. PROP.
MOBILE HM
SUBTOTAL 57,182
-HM EXEMP
TOTAL 57,182

TAX 380.90 2ND TAX 380.90
LATE HALF LATE
INT INT
COST COST
TOT TOT

MCKAY, DAN
2105 WEST 3600 SOUTH
WESTON, ID 83286

TAXING DISTRICT **RATE** **AMOUNT**
COUNTY .005039801 288.20
WESTON CEMETERY .000137849 17.88
WESTSIDE SCHOOL #202 .005936982 339.49
LIBRARY DISTRICT .000832392 47.60
COUNTY ROAD .000100786 5.76
FIRE DISTRICT .001274435 72.87

SW NW, W2 SW, SE SW,
SW SE LESS TN 1
17-16-39
INST # 205409

SUBTOTAL 761.80

TOTAL ACRES: 111.16

TAXES DELINQUENT FOR

*** IMPORTANT ***
PLEASE READ BOTH FRONT AND BACK
*** MONTHLY PAYMENTS ARE ACCEPTED ***
PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE
APPLIED TO THE OLDEST DELINQUENCY YEAR.
TO AVOID LATE CHARGES, PAYMENTS MUST BE
RECEIVED OR POSTMARKED BY THE DUE DATE.
KEEP TOP PORTION FOR YOUR RECORDS.
PERSONAL CHECKS ARE YOUR RECEIPT
SUBJECT TO BANK CLEARANCE.

TO AVOID A LATE POSTMARK AND
PENALTIES, MAIL PAYMENTS BY THE 19TH

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH PAYMENT
PERSONAL CHECKS ARE SUBJECT TO BANK CLEARANCE

MCKAY, DAN 2691.00
YR: 2001
CD: 22
DELINQUENCIES:

PARCEL # 2691.00 2ND HALF
STATE # 380.90

COUNTY: FRANKLIN
LATE
INT
COST
TOT

DELINQUENT IF NOT PAID ON OR BEFORE
DATE PAID: JUNE 20, 2002
PAID BY: CHECK #:
CASH

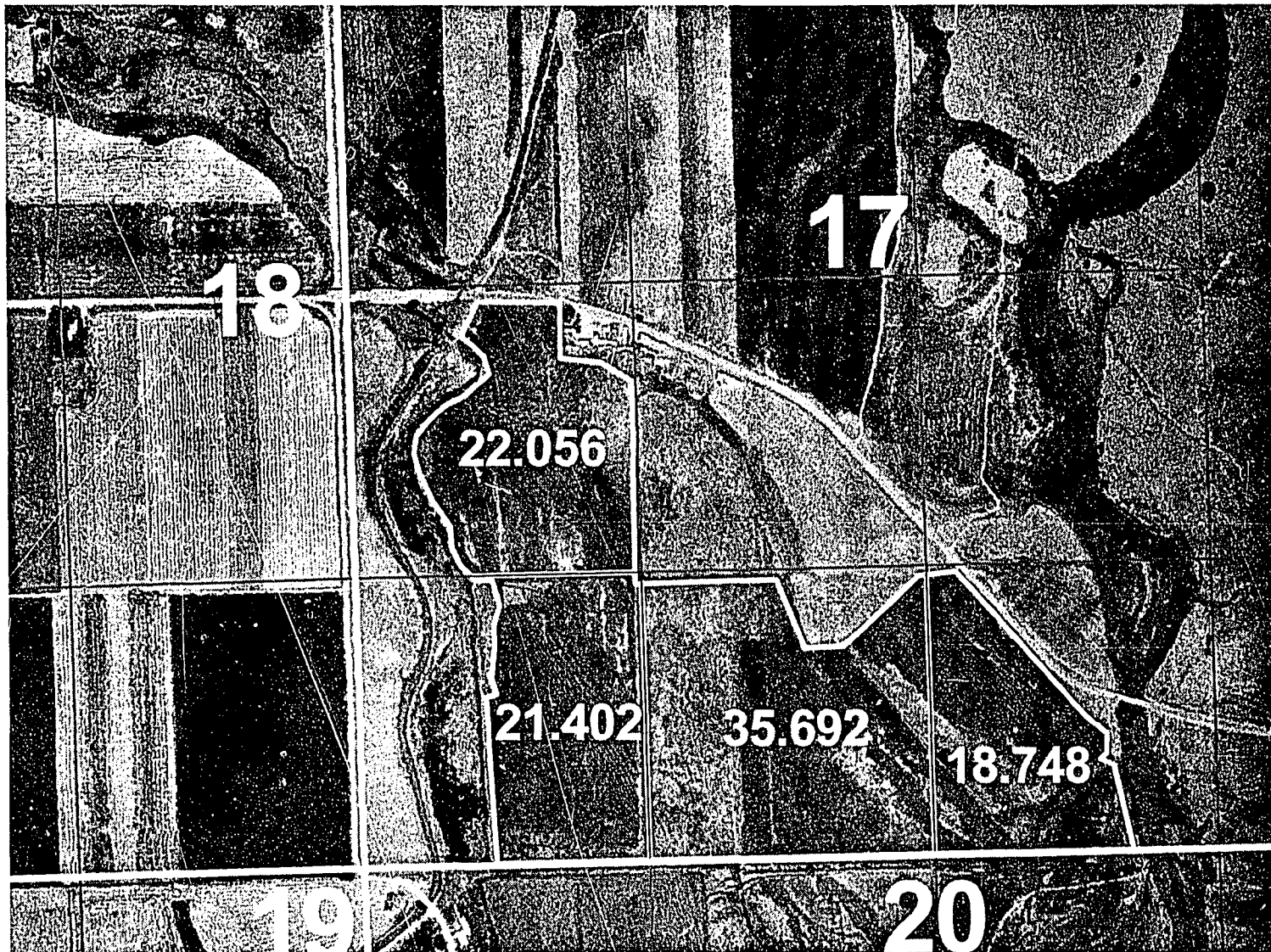
FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH PAYMENT
PERSONAL CHECKS ARE SUBJECT TO BANK CLEARANCE

MCKAY, DAN 2691.00
YR: 2001
CD: 22
DELINQUENCIES:

PARCEL # 2691.00 1ST HALF FULL
STATE # 380.90 761.80

COUNTY: FRANKLIN
LATE
INT
COST
TOT

DELINQUENT IF NOT PAID ON OR BEFORE
DATE PAID: JAN 14 2003
PAID BY: T 70217
ATTACHMENT 1 OF 2



Sections
 GCDB16S39E GCDB
 McKay tr acres.shp

DAN MCKAY FARMS TRANSFER ORIGINAL PLACE OF USE WATER RIGHT 13-00138

JAN 17 2003

ATTACHMENT T 70217
2 OF 2

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 70217

This is to certify that: DAN MCKAY FARMS
2105 W 3600 S
WESTON ID 83286
(208)747-3934

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

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
13-138	WR/Decreed	06/01/1877	2 cfs	N/A			WESTON SLOUGH

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
13-138	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
13-138	13-138	1.77 cfs	310.1 af	N/A	88.6		N/A	N/A	N/A	N/A
TOTALS		1.77 cfs	310.1 af	N/A	88.6		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 23rd day of January, 2003

[Signature]
Chief, Water Allocation Bureau

SCANNED

JAN 29 2003

WATER RIGHT NO. 13-138
As Modified by Transfer No. 70217

In accordance with the approval of Transfer No. 70217, Water Right No. 13-138 is now described as follows.

Right Holder: DAN MCKAY FARMS
2105 W 3600 S
WESTON ID 83286

Priority Date: June 01, 1877

Source: WESTON SLOUGH **Tributary:** BEAR RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	09/30	1.77 CFS	
			1.77 CFS	310.1 AF

LOCATION OF POINT(S) OF DIVERSION:
WESTON SLOUGH NESWNE Sec. 18 Twp 16S Rge 39E FRANKLIN County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
16S	39E	18	31.0	20.0	37.6		88.6

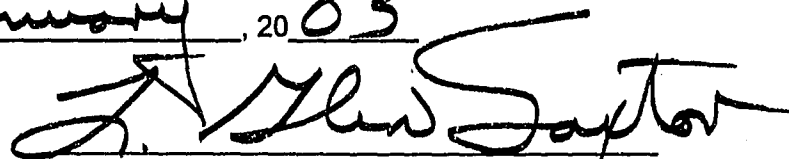
Total Acres: 88.6

CONDITIONS OF APPROVAL

1. 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. 11.
2. 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.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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 23rd day of January, 2003


Chief, Water Allocation Bureau

SCANNED

JAN 29 2003

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 70217

DAN MCKAY FARMS, 2105 W 3600 S, WESTON ID 83286, has filed Application No. 70217 for changes to the following water rights within FRANKLIN County:

Right No. 13-138

Priority 6/1/1877

Source WESTON SLOUGH

Use IRRIGATION (0 acres) 2.00 CFS

Total Amount 2.00 CFS

Point(s) of Diversion

Place of Use S17 T16S R39E

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant is changing the place of use to 88.6 acres in the S 1/2 NE 1/4 and NESW SEC 18 T16S R39E. The cfs will also be reduced to 1.77 cfs.

Protests may be submitted based on the criteria of Sec 42-222, Idaho Code.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before November 18, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on October 30 and November 6, 2002

SCANNED

JAN 14 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION
October 23, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Legal Notice Department
PRESTON CITIZEN
PO BOX 472
PRESTON ID 83263

RE: Transfer No. 70217
Water Right No(s). 13-138

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before November 18, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

*mailed
10/23/02
sc*

SCANNED

JAN 14 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION
October 23, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DAN MCKAY FARMS
2105 W 3600 S
WESTON ID 83286

RE: Application for Transfer No 70217

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right transfer application. Please refer to the above referenced transfer number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Preston Citizen on October 30 and November 6, 2002. Submittal of protests to this application will be allowed for a period ending ten days (November 18, 2002) after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the 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 Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

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

Sincerely,

Harold W. Jones
Harold W Jones
Water Right Supervisor

HWJ:sc

SCANNED
JAN 14 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION
October 15, 2002

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

Dan McKay
2105 W 3600 S
Weston, Idaho 83286

Mr. McKay;

I have received your fax allowing us to reduce the cfs on right 13-138 to 1.77cfs on your transfer application.

I also find on the transfer application that there is a statement that both the original place of use and proposed place of use have Weston Creek Irrigation shares.

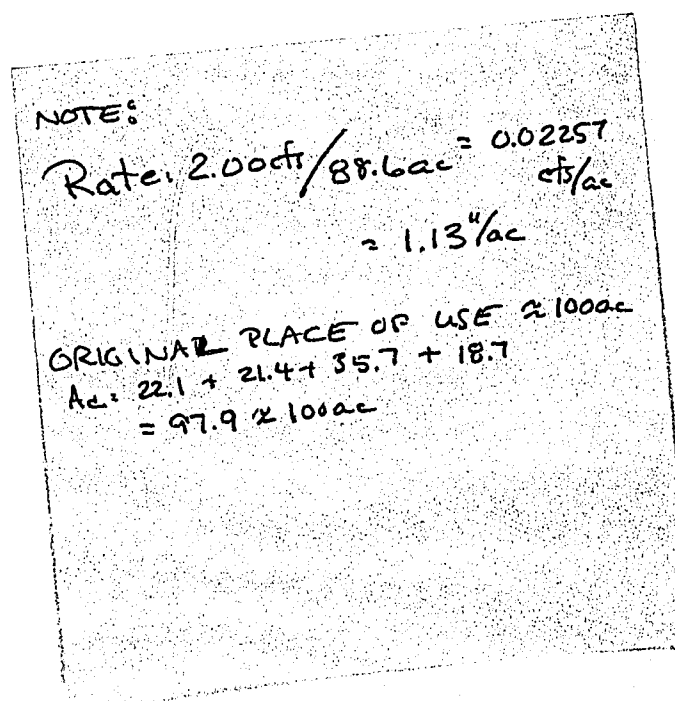
Our review of the data base can only show that an unknown quantity of acres in Sec 18, T16S, R39E have Weston Creek shares. The original places of use in Sec 17, T16S, R39E are not listed.

I will need some documentation from the Irrigation Company that shares apply to both your properties. This should be in the form of a letter from the company to us.

Sincerely,

Harold W. Jones
Water Resource Supervisor

HWJ/clk



SCANNED
JAN 14 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION
October 15, 2002

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

Dan McKay
2105 W 3600 S
Weston, Idaho 83286

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I will need some documentation from the Irrigation Company that shares apply to both your properties. This should be in the form of a letter from the company to us.

Sincerely,

Harold W. Jones
Water Resource Supervisor

HWJ/clk

SCANNED

JAN 14 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 23, 2002

PETE PETERSON
WATER DISTRICT 11
2483 RIVERDALE RD
PRESTON, ID 83263

RE: Application for Transfer 70217
Water Right Number(s) 13-138

Dear Watermaster:

Enclosed is a copy of the above referenced application. Please review the application, complete the enclosed recommendation form, and submit it to this office by November 18, 2002.

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

Sincerely,

Harold W. Jones
Harold W Jones
Water Right Supervisor

Enclosure(s)

HWJ:sc

SCANNED

JAN 14 2003

Weston Creek Irrigation Company
3952 West 5000 South
Weston, Idaho 83286

RECEIVED
NOV 07 2002
Department of Water Resources
Eastern Region

October 23, 2002

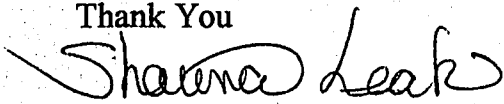
To Whom It May Concern:

This is a statement for Mr. Dan McKay regarding ownership of Weston Creek Irrigation Shares.
Mr. McKay's shares pertain to the following description:

Section 18, Township 16 South, Range 39 East
also Section 17, Township 16 South, Range 39 East

Any water from the Weston Creek Irrigation Company owned by Mr. Dan McKay, may be used
on the above described property.

Thank You



Shauna Leak
Sec. Weston Creek Company

SCANNED
JAN 14 2003

No 5454
AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Franklin

ss.

Rodney Boon
being duly sworn,

deposes and says:

That he is the Editor of THE PRESTON
IZEN, a weekly newspaper published at Preston, in the County of
Franklin and State of Idaho; that said paper has been and is in general
circulation in the county aforesaid, and in the vicinity of Preston; 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 of 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

Oct. 30, 2002, and ending

with the issue of Nov. 6, 2002

R Boon

Fee \$ 78.21

Subscribed and sworn to before me this 20th day

of Nov., 2002.

Ann Rawlings

Notary Public, Residing at Preston, Idaho

My Commission Expires 10/26

RECEIVED
DEC 04 2002
Department of Water Resources
Eastern Region

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 70217**

DAN MCKAY FARMS, 2105 W
3600 S. WESTON ID 83286, has
filed Application No. 70217 for
changes to the following water
rights within FRANKLIN
County:

Right No. 13-138
Priority 6/1/1877
Source WESTON SLOUGH
Use IRRIGATION (0 acres) 2.00
CFS
Total Amount 2.00 CFS
Point(s) of Diversion
Place of Use S17 T16S R39E

The purpose of the transfer
is to change a portion of the
above rights as follows:

The applicant is changing
the place of use to 88.6 acres in
the S 1/2 NE 1/4 and NESW
SEC 18 T16S R39E. The cfs will
also be reduced to 1.77 cfs.

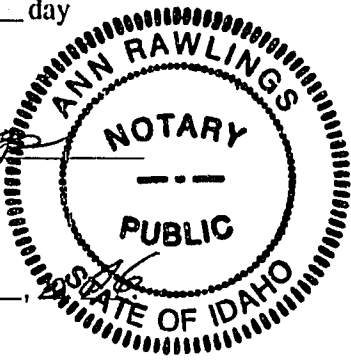
Protests may be submitted
based on the criteria of Sec 42-
222, Idaho Code.

Any protest against the
proposed change must be filed
with the Department of Water
Resources, Eastern Region, 900
N Skyline Dr Ste A, Idaho Falls
ID 83402 together with a
protest fee of \$25.00 for each
application on or before No-
vember 18, 2002. The protes-
tant must also send a copy of
the protest to the applicant.

KARL J DREHER,
DIRECTOR

Legal No. 5454 - Publish
Oct. 30 and Nov. 6, 2002.

SCANNED
JAN 14 2003



State of Idaho
Department of Water Resources
Transfer of Water Right(s)

RECOMMENDATION OF WATERMASTER

RECEIVED
NOV 04 2002
Department of Water Resources
Eastern Region

Transfer Application No: 70217

Water Right No(s): 13-138

Transfer Applicant's Name: DAN MCKAY FARMS

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
b) ☒ I do not oppose approval of this application if it is conditioned as follows:

1 must have measuring devices
2 Know that they have a Senior Right 1921 and can
be turned off in dry years.

- c) ☐ I oppose approval of this application for the following reasons:

- d) ☐ Additional Comment:

Dated this 2 day of NOV., 2002

Water District No: 11


Watermaster's Signature

SCANNED
JAN 14 2003

RECEIVED

JAN 27 2003

Department of Water Resources

MEMORANDUM

Date: January 22, 2003
To: Transfer 70217
From: kwilson
Re: Transfer Evaluation

This transfer proposes to dry up original decreed place of use (approximately 97.9 acres) for use on more productive land (88.6 acres). The transfer moves the water only 1 mile to the site the new place of use. The transfer proposes no new diversion points but establishes a historical point of diversion. The diversion rate will be reduced to reflect 0.02 cfs/acre (1.77 cfs)

Authority to File:

Decreed place of use is owned by Dan McKay as evidenced by 2001 Tax Notice, and the new place of use owned by Dan McKay as evidenced by faxed plat from the Franklin County Assessor office.

Water Right Validity:

Validity of the rights involved: Water right 13-138 was decreed in Rasmussen VS Nielsen (13-L), April 21, 1921. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

There appears to be no injury to other water rights. Water master for Bear River does no object to transfer.

Also the Watermaster provided the period of use for this right via a phone conversation with Harold Jones of this office.

Enlargement of Use:

The diversion rate will be reduced from 2.00 cfs to 1.77 cfs and the place of use acres appear to be reduced by this transfer.

Local Public Interest:

According to the applicant the new place of use is more productive land. If this is the case it is would appear that this transfer is in the local public interest.

Beneficial Use / Conservation of Water Resources:

No issue identified.

Review of the application finds no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

The application has been advertised in "The Preston Citizen." No protests were filed during the protest period.

SCANNED

JAN 23 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 24, 2003

PETE PETERSON
WATERMASTER
PO BOX 349
PRESTON ID 83263

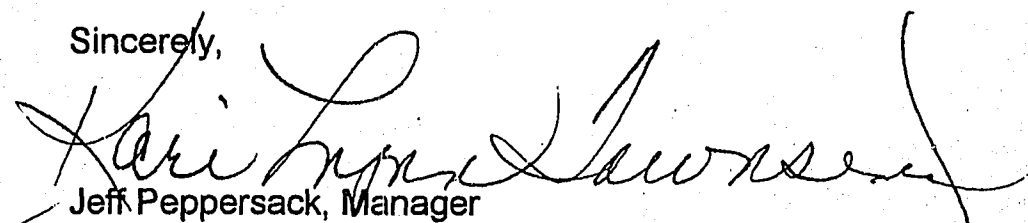
RE: TRANSFER OF WATER RIGHT 13-138 (Transfer 70217)

Dear Pete:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water rights (Transfer 70217) in the name of Dan McKay Farms.

If you have any questions, please call me at 208-327-7940.

Sincerely,

for 
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 24, 2003

DAN MCKAY FARMS
2105 W 3600 S
WESTON ID 83286

RE: Transfer No.: 70217 - Water Right 13-138 - Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7940.

Sincerely,

Camila S. Skaggs
for Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

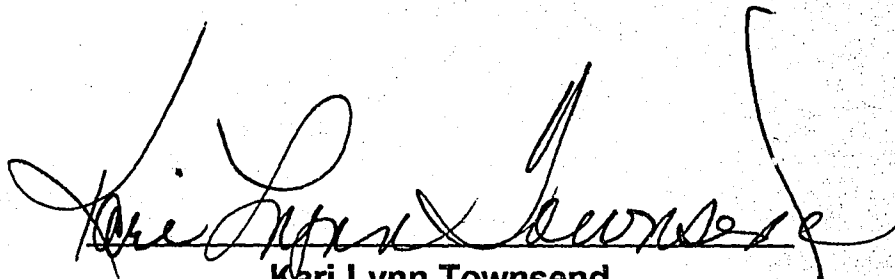
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 70217 - WATER RIGHT 13-138

**DAN MCKAY FARMS
2105 W 3600 S
WESTON ID 83286**



**Kari Lynn Townsend
Secretary**