BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 68533 IN THE NAME OF ROCKY MOUNTAIN LAND & CATTLE, LLC	)	**PRELIMINARY ORDER**

Rocky Mountain Land & Cattle, LLC (Rocky Mountain) filed application for transfer of water right no. 68533 with the Idaho Department of Water Resources (IDWR). The application for transfer sought a change in point of diversion and place of use for several surface water and ground water rights owned by Rocky Mountain. The application for transfer was protested by John Walker (Walker), Franklin J. and Elizabeth M. Powers (Powers), George L. Presley (Presley), King Hill Irrigation District (King Hill), and the United States Bureau of Land Management (BLM)

Following the filing of protests, Rocky Mountain amended the application for transfer. The amendment removed lands owned by BLM from the place of use. BLM's concerns were addressed by the amendment, and BLM withdrew its protest.

The amendment also removed from the application for transfer lands irrigated solely by surface water delivered by King Hill through a separate delivery system. Finally, the amendment added two water rights to the list of water rights sought for transfer.

A hearing was conducted for the protests against the transfer on Tuesday, June 15, 2004. Rocky Mountain was represented by its attorney, Kent Foster. Protestants Presley and Powers represented themselves. Gardner Brown appeared on behalf of King Hill.

At the hearing, Rocky Mountain presented evidence about the flow capacity of the diversion and delivery works for the water rights authorizing diversion from King Hill Creek. Rocky Mountain computed flow capacity of a corrugated metal pipeline (CMP) that delivers King Hill Creek water to irrigated lands. One of the important components of the computation was the diameter of the CMP. Presley testified that a portion of the pipeline buried just downstream from the pipeline inlet was smaller diameter pipe than the pipe diameter assumed for the computation.

At the end of the hearing, the hearing officer requested that Rocky Mountain verify the pipe diameter assumptions and recompute the flow capacity. The hearing officer requested that Rocky Mountain submit the computations for flow estimation to the hearing officer for review. The computations were submitted on July 22, 2004. The computations and other supporting

information were served on Presley and Powers. The documents submitted referred to a joint field visit by Presley and Rocky Mountain.

The estimated flow capacity of the pipe was computed by a computer program. The inputs to the program and the outputs were provided to the hearing officer. The pipe diameter for 540 feet of pipe just downstream of the inlet to the pipeline was changed from 36 inches to 24 inches. Other inputs to the original computation were also changed. The most notable change was a reduction in the pipe roughness coefficient from 1.0 to 0.5. The letter explained that each corrugate was 0.5 inch rather than 1.0 inch as assumed in the original computation. The direct correlation between the measured depth of the corrugates and the roughness coefficient was not explained.

As a result of the changes to the inputs, Rocky Mountain computed a theoretical maximum flow in the pipeline of 12.13 cfs. This computed theoretical flow rate was almost identical to the previously computed estimate of flow capacity.

Because of the coincidental computation of almost the exact same theoretical flow rate, the hearing officer asked IDWR staff to analyze the computations and the accuracy of the inputs. By referring to independent technical information, IDWR verified that the measured corrugate depth can be substituted for the roughness coefficient in the Darcy equation. IDWR also verified the computation of flow capacity in the King Hill Creek Pipeline using independent computer software that computes flow rates in pipelines.

Following the hearing, the further analysis of data and computations explained above, and consideration of the evidence presented at the hearing, the hearing officer finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Application for transfer no. 68533 proposes a change in point of diversion and change of place of use for the following water rights:

Water Right No.	Source	Flow Rate	Storage Volume	Use	Water Right Status
61-349	King Hill Creek	1.20 cfs		Irrigation	Late Adjudication Claim
61-353	King Hill Creek	1.12 cfs		Irrigation	Late Adjudication Claim
61-356	King Hill Creek	6.40 cfs		Irrigation	Recommended Claim
61-357	King Hill Creek	13.60 cfs	490 acre-feet	Diversion to Storage & Irrigation Storage	Recommended Claim

Water Right No.	Source	Flow Rate	Storage Volume	Use	Water Right Status
61-2242	Groundwater	0.94 cfs		Irrigation	Recommended Claim
61-2243	Groundwater	1.60 cfs		Irrigation	Recommended Claim
61-7231	Groundwater	1.20 cfs		Irrigation	Recommended Claim
37-20344	Clover Creek	0.88 cfs		Irrigation	Recommended Claim

2. Rocky Mountain diverts water from four sources into a common pressurized system. The four sources of water are King Hill Creek, Clover Creek, ground water, and Snake River water delivered by King Hill Irrigation District. This transfer does not propose to change any portion of the place of use or point of diversion for water delivered by King Hill Irrigation District. The main purpose of the transfer is to allow delivery of water from King Hill Creek, Clover Creek, and ground water through the integrated system to a permissible place of use of 861 acres.

3. In addition to the place of use change, the application for transfer also proposes to correct an inaccurate description of the point of diversion from King Hill Creek. Partial decrees issued by the adjudication court describe the point of diversion in the SWNE[1] of Section 34, Township 4 South, Range 10 East, Boise Meridian[2]. The transfer proposes location of the point of diversion in the NWNWSW, Section 26, Township 4 South, Range 10 East.

4. The water rights held by Rocky Mountain were not recommended to the Snake River Basin Adjudication (SRBA) Court at the same time. Water right nos. 61-356, 61-357, 61-2242, 61-2243, and 61-7231 were recommended to the SRBA Court in 2001. Water right no 37-4112 was recommended in 2003. The recommendations remain pending in the SRBA awaiting the outcome of this contested case.

5. Rocky Mountain filed late claims for water right nos. 61-349 and 61-353 after the IDWR recommended Basin 61 water rights to the SRBA Court. IDWR adjudication staff has not prepared SRBA recommendations for these water rights. The late claims assert the right to irrigate a subset of the lands described in the claims earlier recommended to the SRBA Court, however.

6. All of the water rights naming King Hill Creek as their source of water, including water right nos. 61-349 and 61-353, were decreed by an Idaho district court in 1904 in the case of Kimbrough v. Canfield. The Kimbrough decision described the irrigation place of use by naming public land survey parcels, and did not specify the exact number of acres irrigated for each parcel. Finding of fact number two of the Kimbrough decision stated "That the amount of

[1] The descriptor "1/4" will be assumed for all two alpha character public land survey locators in this decision unless otherwise written expressly in the text.
[2] The survey meridian line "Boise Meridian" is assumed for all subsequent public land survey descriptions in this decision.

water necessary to the proper irrigation of said land is one inch to the acre." One inch of water, or more properly, one miner's inch of water is equal to 0 02 cubic feet per second

7. In 1974, IDWR approved a transfer changing the point of diversion and place of use for water right nos. 61-349 and 61-353. The approved transfer numerically identified the acres irrigated for water right nos. 61-349 and 61-353. Many of the irrigated acres identified as a place of use by each water right were identical. Some acres were described uniquely for each water right, however. The transfer approved irrigation of between 175 and 187 acres depending on whether some of the acres in the NWNW of Section 6, T05S, R11E were overlapping or independent within a 40-acre parcel. The total flow rate recognized for water right nos 61-349 and 61-353 was 2.32 cfs. Dividing 2.32 cfs by the lowest possible number of acres approved as a place of use, 175 acres, results in a quotient of 0.0133 cfs per acre irrigated, significantly less than the 0.02 cfs authorized by the Kimbrough decree.

8. The narrative in the 1974 application for transfer identifies another 6.4 cfs of water rights appurtenant to the place of use to which water right nos. 61-349 and 61-353 were being transferred. Water right no. 61-356 authorizes diversion of 6.4 cfs of water from King Hill Creek

9. The places of use of the King Hill Creek surface water rights and the ground water rights as they were described in IDWR records prior to the SRBA are listed in a spreadsheet attached hereto as Attachment A. Any places of use described only by public land survey parcel in IDWR records were automatically assigned 40 acres of irrigation. Whenever a parcel was identified as a place of use by more than one water right, the larger place of use was recognized for both water rights. A full 40 acres was also recognized as a place of use for the NWNW, Section 6, T5S, R11E where partial acreages were listed by water right nos 61-349 and 61-353.

10. The total number of acres irrigated in each parcel after accounting for the overlaps is listed in the column titled "Total." The total number of acres authorized for irrigation would have been 533 acres The total flow rate from King Hill Creek and ground water is 12.46 cfs. Dividing 12 46 cfs by 533 acres yields a quotient of 0.0234 cfs per acre, a quantity that is in excess of the 0.02 cfs recognized by the Kimbrough decision. The 533 acre total does not take into account any accomplished changes to the places of use for water right nos. 61-356 and 61-357 from the time the rights were originally decreed until commencement of the SRBA.

11. The conditions recommended in the SRBA for water right nos 61-356 (King Hill Creek) and water right nos. 61-2242, 61-2243, and 61-7231 (ground water) assign a flow rate of 0.02 cfs to each irrigated acre in the place of use. The assignment of a fixed flow quantity to each acre limits the number of acres that can be irrigated by each water right.

12. IDWR prepared recommendations to the court for water right no. 37-20344 in conjunction with this application for transfer. The IDWR adjudication examiner determined that water right no. 37-20344 should be limited to a flow rate of 0.88 cfs and irrigation of 44 acres from Clover Creek. Dividing 0.88 cfs by 44 acres again yields a quotient of 0.02 cfs. The amended application for transfer incorporated the recommendation

13. The SRBA claims asserting the right to divert water from King Hill Creek, Clover Creek, and ground water describe a combined total place of use of 811 acres Attachment B summarizes the place of use for each SRBA claim and the combined total acreage claimed as an irrigation place of use

14. Each of the water rights authorizes diversion of a fixed flow rate. As stand-alone water rights, the flow rate originally decreed and claimed for each of the two late claims must be assigned to individual acres at a rate of 0 02 cfs per acre. Finally, because the rights are being commingled in a common system, the volume of water diverted under each previously decreed water right must be determined to prevent overuse of water. The IDWR standard for annual diversion volume in the area of King Hill is 4.0 acre-feet per acre. The annual volume for the previously decreed water rights is calculated by determining the number of acres irrigated at a rate of 0.02 cfs per acre and multiplying the number of acres authorized for irrigation by 4.0 acre-feet per acre.

15 Each of the licenses issued for water right nos. 61-2242, 61-2243, and 61-7231 recognized annual diversion volumes of 5 0 acre-feet per acre. The higher annual volumes were incorporated into the SRBA recommendations.

16. The following is a summary of the water right flow rates, annual volumes, and acres irrigated for the water right sought to be transferred:

Source of Water	**Water Right No.**	**Flow Rate (cfs)**	**Volume (acre-feet)**	**Acreage**
King Hill Creek	61-349	1.2 cfs	240 a-f	60
	61-353	1.12 cfs	224 a-f	56
	61-356	6.4 cfs	1,280 a-f	320
	61-357	13.6 cfs (claimed)	490 a-f (storage)	280 (subset of same acres as 61-356)
Totals		**12.1 cfs at point of diversion** (based on calculated capacity) **8.72 cfs** (at 0.02 cfs/acre)	**1,744 a-f** (does not include storage volume)	**435 acres**
Ground Water	61-2242	0.94 cfs	235 a-f	47 acres
	61-2243	1.6 cfs	400 a-f	80 acres
	61-7231	1.2 cfs	300 a-f	60 acres
Totals		**3.74 cfs** (at 0.02 cfs/acre)	**935 a-f**	**187 acres**
Clover Creek	37-20344	**0.88 cfs** (at 0 02 cfs/acre)	**176 a-f**	**44 acres**
Grand Total		**13.34 cfs** (at 0.02 cfs/acre)	**2,885 a-f** (does not include storage volume)	**667 acres**

17 In addition to the 667 acres, additional lands are irrigated with Snake River water delivered by King Hill Irrigation District with water commingled in the common system pipeline. King Hill Irrigation District diverts water from the Snake River pursuant to water right claim no. 37-4112. IDWR has not yet recommended claim no. 37-4112 to the SRBA Court.

18. The IDWR employee who prepared the recommendations for water right nos. 63-356 and 63-357 found that 767.2 acres were historically irrigated with a combination of King Hill Creek water, ground water, and surface water delivered by King Hill Irrigation District. The mixing and delivery of water wasn't totally homogeneous. In the recommendations for delivery of ground water, the number of acres in the combined place of use was reduced to 669 acres because ground water could not be physically delivered to 98 acres. The hearing officer finds that this is an unimportant determination because this application seeks to apply the commingled water to all the irrigated acres. The total number of acres irrigated with commingled King Hill Creek water, ground water, and King Hill Irrigation District water is 767 acres.

19. The IDWR employee who prepared the recommendations for water right no. 37-20344 found an additional 44 acres historically irrigated with surface water diverted from Clover Creek. The total number of acres found to be irrigated after adding in the Clover Creek acres was 811 acres.

20. Some of the documents in IDWR's files suggest that an additional 20.2 acres were solely irrigated with surface water from King Hill Irrigation District within the integrated system. If the additional 20.2 acres is added to the 811 acre historical place of use, 831.2 acres should be recognized for irrigation from King Hill Creek, Clover Creek, ground water, **and** surface water delivered by King Hill Irrigation District. In conjunction with the review of this transfer, King Hill Irrigation District provided a map depicting Rocky Mountain lands irrigated with King Hill Irrigation District water as part of the commingled system. The number of acres irrigated with King Hill Irrigation District water is written in each 40-acre grid cell of the map. The total number of acres written on the map within the commingled system is 415.3 acres. The map will be referred to as the "KHID map."

21. The hearing officer compared the place of use described in adjudication claim no. 37-4112, filed by King Hill Irrigation District, with the acreage written on the KHID map. In each of the 40-acre parcels irrigated by the common system, the number of acres in each 40-acre parcel listed in the claim exceeds the number of acres identified in the same 40-acre parcel on the KHID map. The hearing officer cannot reconcile the difference, but assumes the map acreages are more accurate because they were reviewed specifically for the purpose of evaluating the Rocky Mountain water entitlement from King Hill Irrigation District. The irrigation entitlement of Rocky Mountain may change during adjudication of water right no. 37-4112. Until the King Hill Irrigation District place of use is decreed, IDWR will rely on the KHID map acreage.

22. The map acreage values in each grid cell were transferred to the column titled "King Hill" in the spreadsheet attached as Attachment B.

23 The hearing officer assumed that acreage irrigated in a 40-acre parcel by King Hill Creek water, Clover Creek water, or ground water is also a place of use for the King Hill Irrigation District surface water. As a result, if the acreage irrigated by King Hill Irrigation District surface water exceeds the total acreage irrigated by King Hill Creek water, Clover Creek water, and ground water, the excess acreage is irrigated solely by surface water delivered by King Hill Irrigation District.

24. The values under the column titled "Diff" of Attachment B are the additional acres in each 40-acre parcel that are irrigated solely by King Hill Irrigation District water. The total number of acres solely irrigated by King Hill Irrigation District surface water is 14.2 acres.

25 The total number of acres that can be irrigated by the commingled system that includes surface water from King Hill Creek and Clover Creek, ground water, and surface water delivered by King Hill Irrigation District is 811 acres plus 14 2 acres, or 825 2 acres.

26. The application for transfer seeks approval to irrigate 861 acres. The last page of Applicant's Exhibit no. 1-E is an aerial photograph depicting the location of the irrigated acreage in each 40-acre parcel

27. The aerial photograph attached to Applicant's Exhibit no. 1-E labels each 40-acre parcel or government lot with acreage numbers The total number of acres in each parcel is printed in black. If the only number within the parcel is black, the entire parcel is irrigated. If only a portion of the parcel is irrigated, the irrigated acreage is printed in red and the non-irrigated acreage is printed in yellow. The sum of the red and yellow acreage numbers equals the total acres in the parcel.

28. The yellow number (nonirrigated acres) labeled in the NWNE of Section 1, T5S, R10E, is incorrect, and should be 4 9 acres instead of 13.9 acres.

29. The third page of Applicant's Exhibit no. 1-E is a spreadsheet that may have been instrumental in the applicant's determination of the acreage irrigated. The spreadsheet is incomplete and contains information that the hearing officer cannot reconcile with the map or with records of IDWR. The hearing officer finds that the information contained in the spreadsheet is not complete and is not credible.

30 The total of the irrigated acres labeled on the Exhibit no. 1-E map is 860.3 acres. The total of whole number acreages sought by the application for transfer is 861 acres The fractional parcel acreages labeled on the exhibit map appear to have been rounded up or down to the nearest whole acre within each parcel. The number of acres in each parcel listed on the application for transfer will be the recognized place of use. The commingled system can irrigate 861 acres.

31. Rocky Mountain has rented Snake River water from the Idaho Water Resource Board Water Supply Bank in recent years to irrigate additional acreage. The additional water has been delivered through the King Hill Irrigation District's delivery system.

32. In the future, Rocky Mountain must limit its place of use to 825.2 acres of irrigation within the 861-acre place of use. The 36.2 acres not described by a water right can only be irrigated if sufficient water is rented from the Idaho Water Resource Board Water Supply Bank or if IDWR approves a transfer of water rights authorizing irrigation of the 36.2 acres.

33. At the present time, 667 acres can be irrigated if the King Hill Irrigation District water is excluded. By commingling with the other water sources, King Hill Irrigation District water fills in the historical acreage irrigated up to 811 acres. The entire King Hill Irrigation District water right, including additional acreage irrigated with King Hill Irrigation District surface water that exceed present recommendations for irrigation from other sources, must be determined by the SRBA Court because the King Hill Irrigation District water right is not presently before IDWR in this contested case.

34. If the SRBA recognizes changes in irrigated acreages for the King Hill Irrigation District water right (37-4112) that exceed the number of acres already recommended for the parcels of land presently recommended (767 + 44 = 811), and the excess acreage differs from what is now recognized (14.2 acres) added to 811 acres to obtain a total place of use (825 2 acres), the total number of acres authorized for irrigation may need to be adjusted. The adjustment to the condition describing the total number of acres irrigated within the 861 acres can be made administratively without filing a subsequent application for transfer.

35. The capacity of the delivery works for the King Hill water rights is approximately 12.1 cfs

36. The Rocky Mountain ranch operation is part of the local agricultural economy, and contributes to the economic vitality of the area.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 states, in pertinent part:

> The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use

of the original water right. The director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area.

2. Idaho Code § 42-222 also states, in pertinent part:

The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement of use of the original right even though more acres may be irrigated, if no other water rights are injured thereby.

3. The applicant bears the burden of proof for all of the factors listed in Idaho Code § 42-222.

4. This transfer will not injure other water rights if the flow rate and annual volume is limited to historical beneficial use quantities.

5. This transfer will not enlarge the use of water under the water rights if the water flow, water volume, and number of acres irrigated are limited to the historical flow rate, the historical volume diverted, and the number of acres historically irrigated.

6. The delivery of water in a pipeline and sprinkler irrigation results in conservation of the waters of the state of Idaho.

7. Continued irrigation of the Rocky Mountain lands is in the local public interest.

8. The change proposed will continue the agricultural use on the Rocky Mountain lands. The change will not adversely affect the economy of the local area.

ANALYSIS

Water is delivered from four different sources into a pressurized system that commingles the water from the various sources. In addition, surface water delivered from King Hill Creek and stored in a reservoir is also commingled in the system. The portion of the beneficial use claimed by King Hill Irrigation District that authorizes delivery of surface water to Rocky Mountain has not yet been reviewed and recommended to the SRBA by IDWR. The King Hill Irrigation District water right was not included in this application for transfer, but continues to be delivered in the common system. Finally, the number of acres described by the storage water right (61-357) could be increased by this application for transfer because the increase is not an enlargement of use if irrigation of increased acreage will not injure other water rights. All of these factors complicate the ability of the hearing officer to define each water right to prevent enlargement of use.

As a result of the above complications, the conditions for each of the water rights will be written separately by source in the following order.

The storage water right (61-357) was developed in conjunction with water right no 61-356 and authorized irrigation of a subset of acres irrigated by water right no. 61-356. While the number of acres described by a storage water right may be increased without being viewed as an enlargement, the delivery of the storage water to the larger acreage must be capable of being monitored and controlled Otherwise, natural flow water from King Hill Creek or other sources might be repeatedly stored in the reservoir and delivered when the natural flow should have been available to other right holders.

Rocky Mountain did not expressly request an increase in the number of acres irrigated under water right no. 61-357. At the hearing, Rocky Mountain did not present evidence about how it can measure the amount of water stored, the time of the storage, and how it can monitor its release of stored water to the larger number of acres. As a result, Rocky Mountain did not satisfy its burden of showing that an increase in the number of acres recognized for irrigation would not injure other water rights. The number of acres irrigated by water right no. 61-357 will remain a subset of water right no. 61-356, and the two water rights will be linked together The total acreage irrigated by the two rights together will be limited to 320 acres, and the total annual volume of water delivered to the field headgate by a combination of both water rights will be limited to 1,280 acre feet.

By previous order of IDWR, Rocky Mountain installed a measuring device and controlling works on its diversion from Clover Creek, and has been measuring and reporting its diversions to IDWR. As a result, one of the conditions for water right 37-20344 requires continued maintenance of the measuring device and lockable controlling works.

The other diversions are not currently regulated by IDWR or a watermaster. As a result, rights authorizing diversion from King Hill Creek and ground water require installation of measuring devices and controlling works only after notification is given by IDWR.

ORDER

IT IS HEREBY ORDERED that application for transfer no 68533 is **Approved,** subject to conditions described below.

Water Right nos. 61-349, 61-353, 61-356, and 61, 357, authorizing diversion from King Hill Creek, shall be conditioned as follows:

Rights 61-349, 61-353, 61-356, and 61-357 when combined shall not exceed a total diversion rate of 12.10 cfs at the point of diversion from King Hill Creek

Rights 61-349, 61-353, 61-356 when combined shall not exceed a total diversion rate of 8.72 cfs

Rights 61-349, 61-353, 61-356, and 61-357 when combined shall not exceed a total annual maximum field headgate volume of 1,744 acre-feet and the irrigation of 436 acres within the place of use described above in a single irrigation season

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243 and 61-7231 when combined shall not exceed a total annual maximum field headgate volume of 2,885 acre-feet, and the irrigation of 667 acres within the place of use described above.

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243, 61-7231, and a portion of right 37-4112, held by King Hill Irrigation District, shall not exceed a total annual maximum field headgate volume of 3,488 acre-feet, and the irrigation of 825.2 acres within the place of use described above. The total annual field headgate volume and the total acreage limitations in this condition may be amended administratively upon a determination by the SRBA Court that the place of use for the portion of water right no. 37-4112 appurtenant to the place of use described above is different than the place of use for water right no. 37-4112 as described in the final decision approving Transfer no. 68533.

After specific notification by the Department, the right holder shall install a suitable measuring device and lockable controlling works.

All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Water right no. 61-349 shall be conditioned as follows:

This right is limited to the irrigation of 60.0 acres within the place of use described above in a single irrigation season.

Water right no. 61-353 shall be conditions as follows:

This right is limited to the irrigation of 56.0 acres within the place of use described above in a single irrigation season.

Water right no. 61-356 shall be conditioned as follows:

The place of use for this right and water right no. 61-357 is limited to the irrigation of 320 acres within the place of use described above in a single irrigation season.

Water Right no. 61-357 shall be conditioned as follows:

This right is limited to a diversion rate of 12.10 cfs at the point of diversion from King Hill Creek.

The place of use for this right and water right no. 61-356 is limited to the irrigation of 320 acres within the place of use described above in a single irrigation season.

Water Right nos. 61-2242. 61-2243, and 61-7231, authorizing diversion of ground water, shall be conditioned as follows:

Rights 61-2242, 61-2243, and 61-7231 when combined shall not exceed a total diversion rate of 3.74 cfs, a total annual maximum diversion volume of 935 acre-feet and the irrigation of 187 acres.

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243 and 61-7231 when combined shall not exceed a total annual maximum field headgate volume of 2,885 acre-feet, and the irrigation of 667 acres within the place of use described above.

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243, 61-7231, and a portion of right 37-4112, held by King Hill Irrigation District, shall not exceed a total annual maximum field headgate volume of 3,488 acre-feet, and the irrigation of 825.2 acres within the place of use described above. The total annual field headgate volume and the total acreage limitations in this condition may be amended administratively upon a determination by the SRBA Court that the place of use for the portion of water right no. 37-4112 appurtenant to the place of use described above is different than the place of use for water right no. 37-4112 as described in the final decision approving Transfer no. 68533.

After specific notification by the Department, the right holder shall install a suitable measuring device and lockable controlling works.

The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.

All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Water Right no. 61-2242 shall be conditioned as follows:

The place of use for water right no. 61-2242 is limited to the irrigation of 47.0 acres within the place of use described above in a single irrigation season.

Water Right no. 61-2243 shall be conditioned as follows:

The place of use for water right no. 61-2243 is limited to the irrigation of 80.0 acres within the place of use described above in a single irrigation season.

Water Right no. 61-7231 shall be conditioned as follows:

The place of use for water right no. 61-7231 is limited to the irrigation of 60.0 acres within the place of use described above in a single irrigation season.

Water Right no. 37-20344 shall be conditioned as follows:

This right is limited to the irrigation of 44.0 acres within the place of use described above in a single irrigation season.

Right 61-20344 shall not exceed a total diversion rate of 0.88 cfs, a total annual maximum diversion volume of 176.0 acre-feet at the field headgate, and the irrigation of 44.0 acres.

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243 and 61-7231 when combined shall not exceed a total annual maximum field headgate volume of 2,885 acre-feet, and the irrigation of 667 acres within the place of use described above.

Rights 37-20344, 61-349, 61-353, 61-356, 61-357, 61-2242, 61-2243, 61-7231, and a portion of right 37-4112, held by King Hill Irrigation District, shall not exceed a total annual maximum field headgate volume of 3,488 acre-feet, and the irrigation of 825.2 acres within the place of use described above. The total annual field headgate volume and the total acreage limitations in this condition may be amended administratively upon a determination by the SRBA Court that the place of use for the portion of water right no. 37-4112 appurtenant to the place of use described above is different than the place of use for water right no. 37-4112 as described in the final decision approving Transfer no. 68533

Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

All of the water rights included in this transfer shall be conditioned as follows:

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dated the 31st day of January, 2005.

Gary Spackman
Hearing Officer

ATTACHMENT A

ROCKY MOUNTAIN LAND AND CATTLE, LLC (Re:Transfer 68533)
PLACES OF USE OF KING HILL CREEK AND GROUND WATER RIGHTS
PRIOR TO SRBA

T	R	Sec	Quarter	Quarter	61-349	62-353	61-356	61-357	61-2242	61-2243	61-7231	Total
5S	10E	1	NE	NE	38	38						38
			NW	NE								
			SW	NE								
			SE	NE			40	40				40
			NE	SW								
			SW	SW								
			SE	SW								
			NE	SE								
			NW	SE								
			SW	SE								
			SE	SE								
		2	SE	SE								
		12	NE	NE								
			NW	NE								
			NE	NW								
			NW	NW								
			SW	NW								
5S	11E	5	NE	SW								
			NW	SW								
			SW	SW								
			SE	SW								
			NW	SE								
		6	NW	NE	39	14					20	39
			SW	NE			40	40		3		40
			SE	NE	30						40	40
			NE	NW	40	40						40
			NW	NW	13	28						40
			SW	NW			40	40	18			40
			SE	NW			40	40		33		40
			NE	SW			40	40		35		40
			NW	SW			40	40	20			40
			SW	SW					9			9
			SE	SW						7		7
			NE	SE								
			NW	SE			40	40		2		40
			SW	SE			40	40				40
			SE	SE								
												533

ATTACHMENT B

ROCKY MOUNTAIN LAND AND CATTLE, LLC. (Re: Transfer 68533)

PLACES OF USE FOR EACH WATER RIGHT CLAIM AND THE TOTAL ACREAGE CLAIMED FOR IRRIGATION

T	R	Sec	Quarter	Quarter	61-349	62-353	61-356	61-357	61-2242	61-2243	61-7231	37-20344	Total	King Hill	Diff	Brock Total
5S	10E	1	NE	NE	25.1	25.1	40.1	40.1	25.1	25.1	25.1		40.1			36.2
			NW	NE	29	29	40	40	29	29	29		40			35.4
			SW	NE	30	30	30	30	30	30	30		30	11.4		28.3
			SE	NE	40.2	40.2	40.2	40.2	40.2	40.2	40.2		40.2			40.3
			NE	SW									0			0
			SW	SW									0			0
			SE	SW									0			0
			NE	SE	31	31	31	31	31	31	31		31	12.4		36.6
			NW	SE	1.4	1.4	1.4	1.4	1.4	1.4	1.4		1.4			3.6
			SW	SE									0			0
			SE	SE	8.4	8.4	8.4	8.4	8.4	8.4	8.4		8.4			9.3
													0			0
		2	SE	SE									0			0
													0			0
		12	NE	NE	6	6	6	6	6	6	6		6			4
			NW	NE									0			0
			NE	NW									0			0
			NW	NW									0			0
			SW	NW									0			0
													0			0
5S	11E	5	NE	SW	28	28	28	28	28	28	28		28	0.4		27.4
			NW	SW	31	31	31	31	31	31	31		31	16		25.1
			SW	SW	40	40	40	40	40	40	40		40	40.4	0.4	40.4
			SE	SW	14	14	14	14	14	14	14		14	14.9	0.9	27.8
			NW	SE	3.7	3.7	3.7	3.7	3.7	3.7	3.7		3.7			0
													0			0
		6	NW	NE	14	14	34	34	14	14	14		34			34.1
			SW	NE	12.5	12.5	12.5	12.5	12.5	12.5	12.5		12.5	10.7		21.9
			SE	NE	13	13	13	13	13	13	13		13	0.5		13.5
			NE	NW	11	11	41	41	11	11	11		41	3.4		37.5
			NW	NW	9.3	9.3	31.3	31.3	9.3	9.3	9.3		31.3	2.4		29.3
			SW	NW	30.1	30.1	30.1	30.1	30.1	30.1	30.1		30.1	30.8	0.7	30.6
			SE	NW	40	40	40	40	40	40	40		40	38.9		39.6
			NE	SW	40	40	40	40	40	40	40		40	40.1	0.1	39.6
			NW	SW	31	31	31	31	31	31	31		31	30.3		30.6
			SW	SW	20	20	20	20	20	20	20		20	5.3		20.4
			SE	SW	9.1	9.1	9.1	9.1	9.1	9.1	9.1		9.1	10.1	1	25.7
			NE	SE	33	33	33	33	33	33	33		33	35.2	2.2	34.4
			NW	SE	32	32	32	32	32	32	32		32	38.6	6.6	38.1
			SW	SE	20	20	20	20	20	20	20		20	20.7	0.7	22.9
			SE	SE	30.5	30.5	30.5	30.5	30.5	30.5	30.5		30.5	31.2	0.7	31.9
													0			0
		7	NE	NE	1.7	1.7	1.7	1.7	1.7	1.7	1.7		1.7	2.3	0.6	6.2
			NW	NE	12	12	12	12	12	12	12		12			0.1
			SW	NE								8.7	8.7			8.4
			SE	NE								17	17			16.8
			NE	NW									0			13.8
			NW	NW									0			16.9
			NE	SE								5.2	5.2			3.6
													0			0
		8	NE	NW	3.2	3.2	3.2	3.2	3.2	3.2	3.2		3.2			0
			NW	NW	19	19	19	19	19	19	19		19	19.3	0.3	17.2
			SW	NW								4.4	4.4			4.4
			NW	SW								8.7	8.7			8.4
					669.2	669.2	767.2	767.2	669.2	669.2	669.2	44	811	415.3	14.2	860.3