



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: [idwr.idaho.gov](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

November 12, 2020

C & T RANCHES INC  
PO BOX 690  
MERIDIAN ID 83680-0690

**RE: Application for Extension of Time to Avoid Forfeiture Water Right: 63-5408**

Dear Water Right Holder:

The Department acknowledges your request to withdraw your Application for Extension of Time to Avoid Forfeiture of a Water Right for water right 63-5408.

Please be advised that Idaho Code § 42-248 requires you or the owner of this water right maintain current ownership and address records on file with the Department. Please contact any office of the Department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner. These forms are also available by accessing the Department's website at: [www/idwr.idaho.gov](http://www/idwr.idaho.gov).

Please contact this office if you have any questions regarding this matter at 287-4826.

Sincerely,

*for* A handwritten signature in blue ink, appearing to read 'David Betts', with the word 'for' written in cursive to its left.

David Betts  
Sr. Water Rights Agent

Enclosure

OCT 05 2020

OCT 02 2020

Form 42-222(4) Rev. 06/12  
FEE \$100.00STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESDEPARTMENT OF  
WATER RESOURCESWATER RESOURCES  
WESTERN REGION**WITHDRAWN**  
**APPLICATION FOR EXTENSION OF TIME TO AVOID  
FORFEITURE OF A WATER RIGHT**

Section 42-222(4), Idaho Code, provides that a water right holder may apply to protect a valid water right from forfeiture. Upon a showing of reasonable cause, the Director may grant one (1) extension of five (5) years in which to resume use.

- Water Right No. 63-5408 (one right per application)  
☐ Attach a copy of the water right record, available at <http://www.idwr.idaho.gov>, Water Right Transfers, Step 1, or by contacting any Department office.
- Applicant C & T Ranches, Inc Phone 208-514-4909
- Are you the current water right holder of record? Yes ☒ No ☐  
☐ If no, provide documentation of your authority to sign on behalf of the right holder -- OR -- attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
- Mailing address ☒ Same as water right record -- OR -- complete the following information:  
 Address \_\_\_\_\_ City \_\_\_\_\_  
 State \_\_\_\_\_ Zip code \_\_\_\_\_ Email lboots+fi@gmail.com
- Give the last date water was beneficially used Approx 2013
- Explain your reasons for non-use of the water right and your reasons for requesting an extension of time.  
 Attach additional documentation if needed.  
No water since Dunnigun Creek burned and climate change. You can go 3 miles up the creek and it's dry right now. Big runoff in the spring, followed by a trickle of water then goes dry in early July.

The information contained in this application is true to the best of my knowledge.

Thomas T. Nicholson  
Signature of applicant or authorized agent

Thomas T. Nicholson, President  
Print name (and title, if applicable)

9/29/2020  
Date

\_\_\_\_\_  
Signature of applicant or authorized agent

\_\_\_\_\_  
Print name (and title, if applicable)

\_\_\_\_\_  
Date

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby \_\_\_\_\_ said application, subject to the following conditions or reasons:

The right holder shall resume beneficial use of water on or before \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
 Title: \_\_\_\_\_

Stamped received ☐ Fee received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt # \_\_\_\_\_

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

9/23/2020

Water Right 63-5408

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SCOTT R NICHOLSON PO BOX 690 MERIDIAN, ID 83680-0690 (208) 890-2792
Current Owner	THOMAS EMIL NICHOLSON PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	CHRISTINE NICHOLSON PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	KELI A ELLEDGE PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	JENIFER J DELLGARD PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	WILLIAM E MORRIS PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	WILLIAM PATRICK HUGHES PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593
Current Owner	C & T RANCHES INC PO BOX 690 MERIDIAN, ID 83680-0690 (208) 888-1593

Priority Date: 3/11/1884

Basis: Decreed

Status: Active

Source  
DUNNIGAN CREEK

Tributary  
MORES CREEK

Beneficial Use

From

To

Diversion Rate

Volume

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**Proof Report**

9/23/2020

IRRIGATION	03/15	11/15	3.140 CFS
STOCKWATER	01/01	12/31	0.070 CFS
<b><u>Total Diversion</u></b>			3.210 CFS

**Source and Point(s) of Diversion**

DUNNIGAN CREEK                      NWSWNE                      Sec. 22, Twp 04N, Rge 04E,   BOISE County

**Place Of Use**

IRRIGATION within BOISE County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04E	15											9.0						9.0
04N	04E	21	23.3			25.7									10.6				59.6
04N	04E	22						10.7											10.7

POU Total Acres: 79.3

STOCKWATER Same as IRRIGATION

**Conditions of Approval:**

1.        N08        THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
2.        N05        THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3.        C18        THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE.    SECTION 42-1412(6), IDAHO CODE.
4.        S43        Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.

**Comments:**

1.        mminicuc                      1/26/2002                      POU  
According to Scott Nicholson, orthodphotoquad accurately shows location of ditch. Lots of water needed to push water to end of ditch, usually available only in good water years.  
Claimant indicated that irrigation takes place of flat on west side of dirt road.    Several culverts under road located - beneficial use probably does not occur on higher areas of rolling terrain on that side.

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**Proof Report**

9/23/2020

2. mminicuc 1/26/2002 GPS  
Measurement location "5408A" is for POD as well as measurement location for data for Mannings equation.
3. dbuffing 2/25/2002 Address change  
The data in the name field was changed to show this right has an address change.
4. lharris 8/20/2004 Season of Use Condition  
Season of Use condition added per agreement with BOR.

**Dates and Other Information**

Decreed Date: 9/29/2004  
Civil Case Number: 39576  
Judicial District: FIFTH  
State or Federal: S  
Owner Name Connector: OR  
Water District Number: TBD  
Mitigation Plan: False

**Combined Use Limits**

N/A

**SubCase:**

SubCaseNumber: 63-5408  
Class: 1  
SF5 Filed Date:  
Special Master Recom Signed Date:  
Attorney Assigned:  
Adjudication Agent:  
Basis of Claim: Beneficial Use  
Date Filed: 1/31/2003  
Objection Status: Active

**Water Supply Bank:**

N/A

C & T RANCHES, INC.  
PO BOX 690  
MERIDIAN, ID 83680-0690  
208-514-4909

October 28, 2020

David Betts  
Idaho Dept. of Water Resources  
PO Box 83720  
Boise, ID 83720

RE: Water Right 63-5408

Dear Mr. Betts:

After looking at the options you presented me with, I think the right thing to do is to withdraw the application for extension of time on the above water right.

Thank you for explaining my options and thank you for your time.

Regards,



Thomas (Tom) Nicholson  
President

**Betts, David**

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**From:** Linda Boots <lbootstfi@gmail.com>  
**Sent:** Wednesday, October 28, 2020 1:40 PM  
**To:** Betts, David  
**Subject:** Re: Application for extension of time to avoid forfeiture (63-5408)  
**Attachments:** WR 63-5408.pdf

Please see the attached letter.

On Tue, Oct 27, 2020 at 2:31 PM Betts, David <[David.Betts@idwr.idaho.gov](mailto:David.Betts@idwr.idaho.gov)> wrote:

Dear Mr. Nicholson,

I am reviewing your Application for Extension of Time to Avoid Forfeiture of a Water Right for water right no. 63-5408. Based on the information provided in your application and our discussion over the phone last week, you may not need to file an Application for Extension of Time to protect your water right. Idaho Code §42-223 (6) defines one of the exceptions or defenses to forfeiture as, "No portion of any water right shall be lost or forfeited for nonuse if the nonuse results from circumstances over which the water right owner has no control." On your application you stated that Dunnigan Creek dries up by early July, which could possibly be classified as nonuse resulting from circumstance out of your control.

I am informing you of the possible protection of your water right under Idaho Code §42-223, because the Department is authorized to provide only one (1) extension of time to avoid forfeiture per water right. I can still process your application for extension of time, if you still have concerns over preserving the use of your water right. A reply to this email is sufficient to have me to process your application as it stands.

If you wish to withdraw your application for extension of time, please submit a letter to the Department requesting the withdrawal. This letter should include the water right no. (63-5408) and should be signed by you.

During our phone conversation you asked about the possibility of moving the point of diversion to Mores Creek, or acquiring additional rights from Mores creek for the irrigation of your place of use. Based on my understanding the Department's regulations, neither of those proposals appears to be a possible solution. An Application for Transfer of a Water Right is unable to authorize changing the

source of a water right (e.g. moving the point of diversion from Dunnigan Creek to Mores Creek). As for new rights, new permits in this area are not being approved at this time, because the tributaries to the Boise River down through Star are fully appropriated.

Please let me know how to proceed with your Application for Extension of Time within fourteen (14) days. If I don't hear from you within the 14 days, I will assume that I should proceed with your application as it stands.

Thank you for your attention to this matter,

--

*Dave Betts - Water Resource Agent*

**Water Rights Section | Idaho Department of Water Resources**

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: [david.betts@idwr.idaho.gov](mailto:david.betts@idwr.idaho.gov)

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Linda Boots  
TFI LP / CCT Land & Cattle / HHW /  
Black Creek LP / Placerville Land LLC /  
Hot Springs LLC / Rudolph Investments /  
NCIP / Journey's End / Merlin Pte  
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