

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE

For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with [Idaho Code § 42-202A](#).

RECEIVED
FEB 24 2020
Department of Water Resources
Eastern Region

Name of applicant Eastern Snake Plain Aquifer Recharge Phone (208) 243.1824
Mailing address 593 E. 5th South City Rexburg
State ID Zip 83440 Email pgike@cablone.net

1. Source of water South Fork of Snake River tributary to _____
2. Location of point(s) of diversion. If more than two, attach a [Point of Diversion/Place of Use Supplement](#). ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
4N	40E	36			NW	SE	Jefferson	Snake River	Mattson-Craig Headg

3. Location of place of use. If more rows are needed, attach a [Point of Diversion/Place of Use Supplement](#). ☐

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

4. Proposed use of water:

- a. ☐ Prevention of flood damage ☒ Ground water recharge ☐ Ground water or surface water remediation
☐ Other (Limited to a diverted volume of 5 acre-feet.) Describe: _____

- b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:

- a. Maximum rate of diversion: 20 cfs; or _____ gpm.
b. Maximum daily volume: 40 AF; or _____ gallons.
c. Maximum volume over the duration of the request: 5,000 AF; or _____ gallons.

6. Duration of diversion: from approval (month-day) to December 31, 2020 (month-day).

7. Describe proposed diverting works: Headgate of the Mattson Craig Ditch on the Snake River below the Great Feeder

8. a. Who owns the property at the requested point of diversion? Mattson Craig Ditch
b. Who owns the facilities that will convey water to the place of use? Matson Craig Ditch
c. Who owns the land to be irrigated or place of use? Matson Craig Ditch
d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. See contract

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Kent Espel Executive Director 02-18-2020
Signature of Applicant Title, if any Date

Received by CA Date 2/24/2020 Time _____
\$50.00 fee receipted by CA # E045668 Date 2/24/2020
Watermaster comments received? CA Date 3/2/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

 A. The application for temporary approval should be denied because _____

☒ B. The application for temporary approval should be approved, since

1. The temporary approval can be properly administered.
2. Other water sources are not readily available.
3. The approval is in the public interest.
4. The approval will not injure known public values associated with the water source or any known water rights.
5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

 A. DENIED

☒ B. APPROVED, subject to the following conditions:

1. Diversion and use of water under this approval is subject to all valid existing water rights.
2. The applicant assumes all risk of the use of the water under this approval.
3. This approval authorizes a maximum diversion volume of 5,000 AF and a maximum diversion rate of 20 cfs.
4. This approval does not grant a right-of-way across the land of another.
5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
7. This approval does not create a continuing right to use water.
8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
11. Other: Diversion under this approval is limited to times when the flow at the Snake River near Minidoka gage (#13081500) exceeds 2,700 cfs and excess water is spilling past Milner Dam.
12. This approval expires on Dec 31, 2020

Signed this 2nd day of March, 2020.

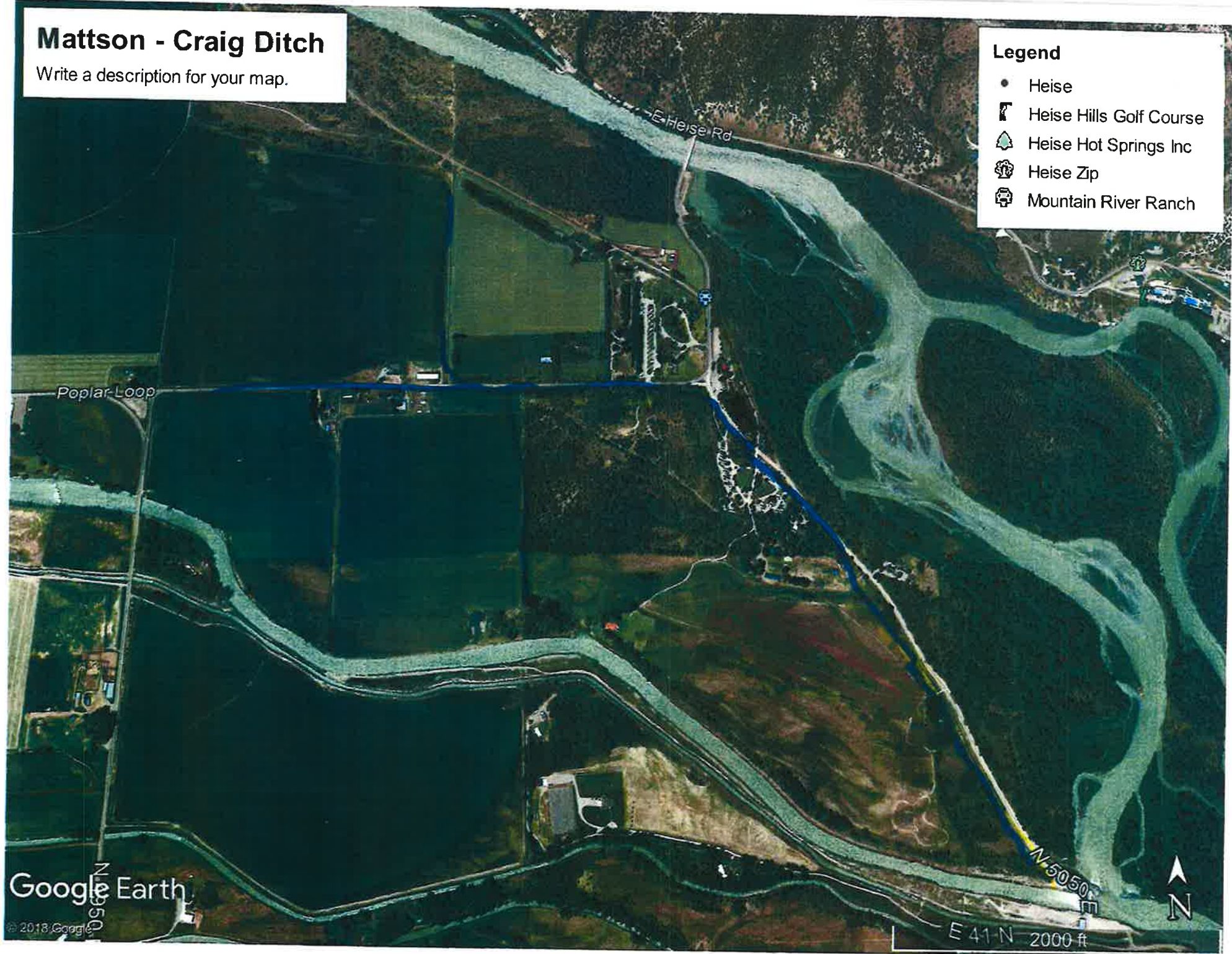

For the Department

Mattson - Craig Ditch

Write a description for your map.

Legend

- Heise
- 🏌️ Heise Hills Golf Course
- 🌲 Heise Hot Springs Inc
- 🏠 Heise Zip
- 🚐 Mountain River Ranch



RECHARGE AGREEMENT

THIS RECHARGE AGREEMENT (this "Agreement") is made and entered into to be effective as of the 18th day of March, 2020 (the "Effective Date"), by and between Mattson - Craig Ditch, a ditch company, whose address is 15533 E Ririe Hwy, Ririe, ID 83443 (hereinafter "Company"), and **Eastern Snake Plain Aquifer Recharge**, an Idaho corporation, whose address is P.O. Box 8, 144 S. Main., Aberdeen, Idaho 83210-0008 (hereinafter "ESPAR"). Collectively, the above entities are hereinafter referred to as the "Parties".

RECITALS:

A. ESPAR was established to facilitate managed aquifer recharge ("MAR") projects in the Upper Snake River Basin, including the marketing of MAR water it manages as Aquifer Recharge Units ("ARUs") with its allocation, tracking, and accounting system under which a filled ARU equals one acre-foot of water which may be withdrawn from the aquifer pursuant to a state-authorized diversion.

B. In order to derive benefit from the MAR conducted pursuant to this Agreement, ESPAR will use ARUs to allocate, track, and account for MAR water used to fill ARUs, and to establish and maintain a record of the ownership interests in the recharged water.

C. ESPAR has obtained, or is seeking to obtain, storage water and/or other natural flow water supplies needed by the Company to conduct MAR in 2020-2021 for allocating water to ARUs.

D. The Company desires to have ESPAR conduct recharge at MAR sites available to the Company, subject to the terms of this Agreement.

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, agree as follows:

AGREEMENTS:

1. TERM: The Term of this Agreement shall be from the Effective Date until December 31, 2021.
2. PROPERTY LEASED. Subject to the provisions of this Agreement, Company hereby agrees to lease to ESPAR the MAR sites described on **Exhibit 1**. No water rights or other property rights of the Company are included in this Agreement.

3. RECHARGE AMOUNT. ESPAR anticipates recharging up to 4,000 acre-feet per year under this Agreement. However, the Parties recognize that the amount of water that ESPAR will be able to recharge will vary depending on availability of the water supply and availability of the MAR sites.
4. PAYMENT. ESPAR shall pay to the Company \$10__ per acre-foot of recharge water delivered into the MAR sites when water is available under a recharge permit. If storage water is used the terms will be agreed to at the time. Payment shall be made on or before July 30, 2021 and July 30, 2022__.
5. MAR SITE USAGE.
 - a. Company Discretion. ESPAR is authorized to use the MAR sites for delivery of recharge water. The determination of when such recharge water deliveries can be made shall be determined by the Company's manager and/or board of directors in their sole discretion. Notwithstanding the above, the Company agrees at all times to work with ESPAR in good faith to coordinate recharge deliveries, and that the Company shall not unreasonably withhold recharge water deliveries as the Company recognizes that the actual delivery of recharge water is critical to RDC's needs.
 - b. Pre-Irrigation Season Recharge (before April 1st). It is understood between the Parties that the Company typically needs the MAR sites to dry out sufficiently for the Company to do pre-irrigation season maintenance to the MAR sites, and that when the MAR sites are sufficiently dry is a function of snow amount in the MAR sites, spring precipitation, temperature, etc., which are all factors over which the Company has no control. To the extent the MAR sites are dried out and pre-irrigation season maintenance is completed, the Company may, in its sole discretion, allow the MAR sites to be used to deliver recharge water prior to the commencement of the irrigation season.
 - c. Irrigation Season Recharge. It is anticipated that most recharge water deliveries pursuant to this Agreement will occur during the early (i.e., April 1st through June 15th) and late portions (i.e., September 15th through October 31st) of the irrigation season when demands for the Company's shareholders decrease, or after the irrigation season (beginning November 1st) when there is no demand for water from the Company's shareholders. However, the Company hereby agrees that it will work with the ESPAR in good faith to coordinate recharge deliveries during the irrigation season.
 - d. Post Non-irrigation Season Recharge (after October 31st). To the extent ESPAR's desired ground water recharge water amount is not delivered during the pre-irrigation or the irrigation season, the Company shall permit use of the MAR sites after the irrigation season (beginning November 1st) up until the RDC meets its desired recharge amount, or until the weather changes such that delivery of water through the MAR sites are not possible as determined by the Company.

6. ANNUAL PRE-IRRIGATION SEASON MEETING. The Parties hereby agree that they will hold an annual pre-irrigation season meeting to discuss ESPAR's anticipated recharge volume needed for the upcoming year, timing of the deliveries of such water, any logistical concerns from the prior year(s) regarding recharge, and any other matters pertaining to delivery of upcoming recharge water. Unless otherwise agreed to between the Parties, the annual pre-irrigation season meeting will be held one hour immediately before the Company's regularly scheduled annual stockholder meeting as designated in the Company's bylaws.
7. INDEMNIFICATION AND ASSUMPTION OF LIABILITY. To the extent ESPAR's recharge water delivered through the MAR sites under the provisions of this Agreement causes any property damage, injury, or death, ESPAR hereby agrees to defend and indemnify the Company against and to hold Company harmless from any and all claims and demands, including but not limited to, claims or demands for loss of or damage to property or injury or death to any person from any cause whatsoever from ESPAR's use of the MAR sites for delivery of ESPAR's recharge water. Notwithstanding the above, such indemnification shall not extend to negligence on behalf of the Company or the Company's manager in the delivery of such recharge water, provided that such negligence is proven in a court of law.
8. MISCELANEOUS.
- a. Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto. Neither Lessee nor Lessor shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
 - b. Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
 - c. Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
 - d. Counterparts. This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.
 - e. Governing Law. This Agreement shall be governed by the laws of the State of Idaho.
 - f. Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
 - g. Essence of Time. Time is of the essence in this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

"COMPANY"

Mattson – Craig Ditch

By: Claudia Hickman

Print: Claudia Hickman

Position: Secretary Secy

"ESPAR"

EASTERN SNAKE PLAIN AQUIFER RECHARGE

By: Keith Esplin

Print: Keith Esplin Keith Esplin

Position: Executive Director _____

EXHIBIT 1

MAR SITES

[Describe MAR sites] The Mattson – Craig Ditch and lands controlled by the ditch, adjacent to the ditch.



Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Gary Spackman
Director

March 2, 2020

EASTERN SNAKE PLAIN AQUIFER RECHARGE
593 E 5TH S
REXBURG ID 83440-5064

RE: Application for Temporary Approval of Water Use: TP-22-32, TP-21-58, TP-1-98

Dear Applicant:

Your applications for temporary water appropriation have been approved and are enclosed. The approvals authorize the temporary use of water and do not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval forms** to understand the limitations associated with the temporary use of water.

These temporary approvals **expire on** December 31, 2020. The expiration date cannot be extended under these temporary approvals.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you.

If you require additional information regarding this matter, please call me at (208) 497-3793 or email me at Christina.Henman@idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH' followed by a stylized flourish.

Christina Henman
Administrative Asst. I.

Enclosure(s) Receipt

cc: TONY OLENICHAK, Water District 01.

Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application for Temporary Approval of Water Appropriation

TP-1-98

EASTERN SNAKE PLAIN AQUIFER RECHARGE (ESPAR)

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:

DISCHARGE AT MINIDOKA DAM MUST EQUAL OR EXCEED DELIVERY TO HYDROPOWER WATER RIGHT 1-217 CURRENTLY LIMITED TO 2,400 CFS ... AND ... EXCESS WATER MUST BE SPILLING PAST MILNER DAM.

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

- d) ☐ Additional Comment:

Dated this 28 day of FEBRUARY, 20 20.

Water District No: 01


Watermaster's Signature