Page 1 of 5

### STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

#### TRANSFER OF WATER RIGHT TRANSFER NO. 83699

This is to certify that:

RIVER FLAT DITCH CO

C/O JON WATSON PRESIDENT

**PO BOX 300** 

PARMA, ID 83660

SUPPORT DATA

IN FILE # 63-217-79

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. A summary of the changes is also listed below. 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 Changes

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	<u>Total</u> <u>Acres</u>	Source
63-21779	WR/DECREED	6/6/1917	11.020 cfs	N/A	N/A	752.0	SAND HOLLOW CREEK
63-21780	WR/DECREED	3/15/1890	25,100 cfs	N/A	N/A	752.0	SAND HOLLOW CREEK

#### Purpose of Transfer (Changes Proposed)

<b>Current Number</b>	<u>Split</u>	POD	POU	Add POD	Period of Use	Nature of Use
63-21779	NO	NO	NO	YES	NO	NO
63-21780	NO .	NO	NO	YES	NO	NO

#### Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	<u>Transfer</u> <u>Volume</u>	Acre Limit	<u>Total</u> <u>Acres</u>	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-21779	63-21779	11.020 cfs	N/A	N/A	752.0	N/A	N/A	N/A	N/A	N/A
63-21780	63-21780	25.100 cfs	N/A	N/A	752.0	N/A	N/A	N/A	N/A	N/A
COMBINE	D TOTALS	36.120 cfs	N/A	N/A	752.0		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 300 day of Jonuary 2020

Chief, Water Allocation Bureau

#### **WATER RIGHT NO. 63-21779**

#### As Modified by Transfer No. 83699

In accordance with the approval of Transfer No. 83699, Water Right No. 63-21779 is now described as follows:

Right Holder:

RIVER FLAT DITCH CO

C/O JON WATSON PRESIDENT

**PO BOX 300** PARMA, ID 83660

**Priority Date:** 

6/6/1917

Source:

SAND HOLLOW CREEK

Tributary:

SNAKE RIVER

BENEFICIAL USE **IRRIGATION** 

From 03/01

To to 11/15

**Diversion Rate** 11.020 cfs

11.020 cfs

LOCATION OF POINT(S) OF DIVERSION

SAND HOLLOW CREEK SAND HOLLOW CREEK SENE **SENW**  Sec 8 Twp 05N Rge 05W CANYON County Sec 8 Twp 05N Rge 05W CANYON County

#### **CONDITIONS OF APPROVAL**

- 1. 63-21779 is renumbered from 63-2304.
- 2. Rights 63-21779 and 63-21780 when combined shall not exceed a total irrigation of 752 acres.
- This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
- 4. Source is also known as Stockton Slough.
- 5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
- The boundary encompassing the place of use for this water right is described with a digital boundary as defined by Idaho Code § 42-202B(2) and authorized pursuant to Idaho Code § 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the CSRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
- The source of this water right may include waste water. Any waste water remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

Transfer	No	83699
Hansler	INO.	03033

#### **WATER RIGHT NO. 63-21779**

#### As Modified by Transfer No. 83699

#### **CONDITIONS OF APPROVAL**

- 8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- 9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



#### **WATER RIGHT NO. 63-21780**

#### As Modified by Transfer No. 83699

In accordance with the approval of Transfer No. 83699, Water Right No. 63-21780 is now described as follows:

Right Holder:

RIVER FLAT DITCH CO

C/O JON WATSON PRESIDENT

PO BOX 300 PARMA, ID 83660

**Priority Date:** 

3/15/1890

Source:

SAND HOLLOW CREEK

Tributary:

SNAKE RIVER

**BENEFICIAL USE** 

From

To

Diversion Rate 25.100 cfs

IRRIGATION

03/01 to 11/15

25.100 cfs

#### LOCATION OF POINT(S) OF DIVERSION

SAND HOLLOW CREEK SAND HOLLOW CREEK SENE SENW Sec 8 Twp 05N Rge 05W CANYON County

Sec 8 Twp 05N Rge 05W CANYON County

#### **CONDITIONS OF APPROVAL**

- 1. 63-21779 is renumbered from 63-2304.
- 2. Rights 63-21779 and 63-21780 when combined shall not exceed a total irrigation of 752 acres.
- 3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
- 4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
- 5. Source is also known as Stockton Slough.
- 6. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by Idaho Code § 42-202B(2) and authorized pursuant to Idaho Code § 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the CSRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
- 7. The source of this water right may include waste water. Any waste water remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

Page 5 of 5

#### **WATER RIGHT NO. 63-21780**

#### As Modified by Transfer No. 83699

#### **CONDITIONS OF APPROVAL**

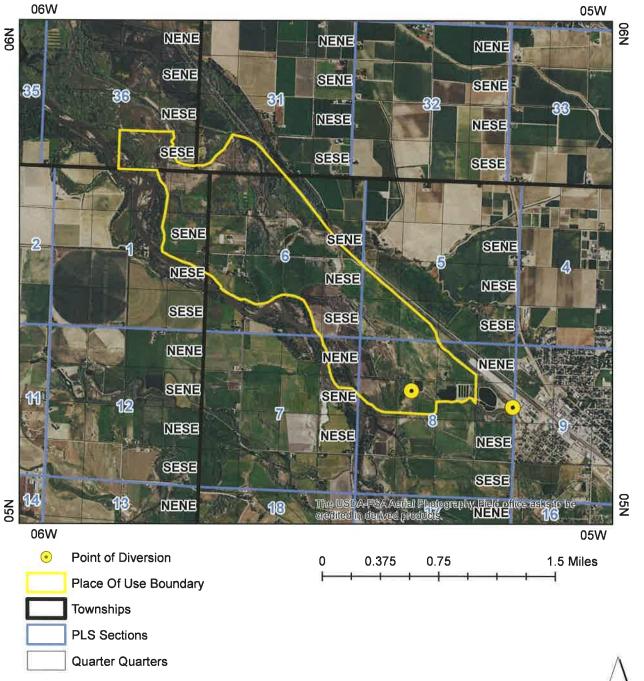
- 8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- 9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



#### **River Flat Ditch Co**

# Attachment to Water Right Transfer 83699 63-21779 and 63-21780

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.







# State of Idaho DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082 Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

> GARY SPACKMAN Director

January 30, 2020

RIVER FLAT DITCH CO C/O JON WATSON PRESIDENT PO BOX 300 PARMA ID 83660

Re: Transfer No: 83699

Water Right No(s).: 63-21779, 63-21780

**Transfer Approval Notice** 

Dear Water Right Holder and other Interested Persons:

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.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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) 334-2190.

Sincerely,

Kensie Thorneycroft

Administrative Assistant

Enclosure

#### CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 83699

Water Right No(s).: 63-21779, 63-21780

RIVER FLAT DITCH CO C/O JON WATSON PRESIDENT PO BOX 300 PARMA ID 83660

SPF WATER ENGINEERING LLC C/O LORI GRAVES 300 E MALLARD DR STE 350 BOISE ID 83706-6660

Kensie Thorneyeroft

Administrative Assistant

## EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. <u>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:</u>

#### **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. **Note:** the petition must be <u>received</u> by the department within this fourteen (14) day period. 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 Water Resource 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 service date 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.

#### **MEMORANDUM**

TO: Transfer No. 83699 FROM: Shilynn Novak

DATE: January 13, 2020

RE: Evaluation of Application

River Flat Ditch Company (River Flat) filed Transfer No 83699 for Water Rights 63-21779 and 63-21780. River Flat intends to add a new point of diversion on Sand Hallow Creek. The new POD is an exsisting concrete structure with a sliding headgate. The structure has been in place for many years and is used to deliver accessed water to ROWN Farms property.

There is an exsisting POD for these rights located upstream of Sand Hallow Creek at 05N 05W Sec 8 SENE.

The POU begins a .25 miles to the west of the western border of Parma city limits and stretches towards the northwest approximately 3 miles. The POU is on the north side of the Boise River.

Lori Graves of SPF Water Engineering is the representative for the transfer. Ms. Graves can be reached at 208-383-4140 or <a href="mailto:lgraves@spfwater.com">lgraves@spfwater.com</a>.

#### **Summary of Information Submitted**

#### **Authority to File:**

The application was filed for River Flat. River Flat is the original owner of the water right. Jon C Watson is the President of River Flat has authority to sign on behalf of River Flat.

#### Water Right Validity:

Validity is not a concern. Referencing I.C. § 42-223, these rights are presumed to be valid since irrigation companies are protected from forfeiture.

#### **Overlap Analysis:**

Within the applicant's POU boundary, there is an overlap of water rights. Farmer's Cooperative Ditch Co and the Department of Fish and Game both have irrigation specific rights that also use Sand Hallow Creek and Sand Hallow Drain as a source. (Sand Hallow Creek is likely also known as Sand Hallow Drain.) All rights owned by the applicant are included in the transfer. No other rights should be considered.

#### Injury to Other Water Rights:

The other water rights in the area which uses Sand Hallow Creek and overlaps River Flat's POU, includes the Idaho Fish and Game, McConnel Island Ditch Company LTD, and Farmers Cooperative Ditch Company. Comment letters were sent to all overlapping water rights during advertising and there was no protest.

River Flat is adding a new POD that was already in place. It used to be used to deliver water to Rown Farm and is unlikely to cause injury since the headgate is already in place and has been previously used to deliver water.

#### **Enlargement of Use:**

Water rights 63-21779 and 63-21780 have a combined acre limit of 752.0 acres in a single irrigation season which is the department standard 3/1-11/15. 63-21779 has a rate of 11.02 CFS, 63-21780 has a rate of 25.1 CFS, and a combined rate of 36.12 CFS. No potential changes to source anticipated with Transfer 83699.

#### **Local Public Interest:**

No additional information has been made available to suggest a conflict with public interest.

#### Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

#### **Summary**

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

# 63-21779 & 63-21780 POU Overlap

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63-9218	STATE OF IDAHO	SAND HOLLOW CREEK	WILDLIFE STORAGE	×	×	×	×	×	×	×	×	×	×			×		×	Ţ

#### \*\*\* Proof of Publication \*\*\*

Twin Falls Times-News 132 Fairfield St W, Twin Falls, Idaho 83301

RUBY AUFDERHEIDE, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:



Insertions

IDAHO DEPT OF WATER RESOURCES , ATTN Kensie Thorneycroft 2735 AIRPORT WAY **BOISE ID 83705** 

ORDER NUMBER

(Legals Olerk)

STATE OF IDAHO)

COUNTY OF TWIN FALLS )

On this <u>alo</u> day of <u>December</u> in the year of <u>2019</u> before me, a Notary Public, personally appeared before me Ruby Aufderheide known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Notary Public FOR Idaho Residing at: Twin Falls, Idaho

My Commission expires:

Section: Legals Category: 50 Legal

PUBLISHED ON: 12/19/2019, 12/26/2019

TOTAL AD COST:

99.21

FILED ON:

12/26/2019

ERICA IZAGUIRRE NOTARY PUBLIC STATE OF IDAHO COMMISSION # 20191592 EXPIRES 08-07-2025

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 83699

RIVER FLAT DITCH CO, C/O JON WATSON PRESIDENT PO BOX 300, PARMA, ID 83660; has filed Application No. 83699 for changes to the following water rights within CANYON County(s): Right No(s). 63-21779, 63-21780; to see a full description of these rights and the proposed transfer, please see https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers. The purpose of the transfer is to change a portion of the above rights as follows: The purpose of the transfer is to add an existing point of diversion on Sand Hallow Creek. The new point of diversion is an existing concrete structure with a sliding headgate. Water will be used at the current place of use near the western border of Parma city limits and extending northwest approximately 3 miles southeast on the northern bank of the Boise River. For additional information concerning the property location, contact Western Region office at (208) 334-2190. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full contact Western Hegion office at (208) 334-2190; or for a rull description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way. Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 01/06/2020. The protestant must also send a copy of the protest to the applicant.

send a copy of the protest to the applicant. GARY SPACKMAN, Director

PUBLISH: December 19 and 26, 2019

RECEIVED

JAN 0 2 2020

WATER RESOURCES WESTERN REGION