

T5760 RENO DITCH COMPANY



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

*Skip
Eastern*

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 7, 2003

CERTIFIED MAIL

Re: Application for Transfer No. 5760 in the name of Reno Ditch Company

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Order Denying Petition for Reconsideration** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party files an exception and/or brief as described in the enclosed information sheet.**

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures

✓ c: IDWR - Regional Office

RECEIVED
11 2003
Department of Water Resources
Eastern Region

RECEIVED
MAR 11 2003
Department of Water Resources
Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5760 IN THE)
NAME OF RENO DITCH COMPANY,)
INC.)
_____)

**ORDER DENYING PETITION
FOR RECONSIDERATION**

On February 4, 2003, the Department of Water Resources ("Department") issued a Preliminary Order denying Application for Transfer No. 5760 ("application") filed in the name of Reno Ditch Company ("applicant").

On February 18, 2003, the applicant filed a Petition for Reconsideration ("petition") of the Preliminary Order.

The Department has reviewed the petition and responds to the matters raised, in the sequence raised, as follows:

1. A response is not required.
2. In its denial of the application, the Department is not addressing a policy, and instead is following provisions of Section 42-222, Idaho Code. This section provides that an application for transfer may be used to change the point of diversion, place of use, period of use or nature of use of all or part of a water right. The application seeks to change the source of water from one independent source to a different independent source of water which change is not authorized under Section 42-222, Idaho Code. The Department is not authorized to approve the application changing the source and should deny the petition.

ORDER

IT IS HEREBY ORDERED that the Petition for Reconsideration filed by the applicant is **DENIED**.

Dated 7th day of March, 2003.



L. GLEN SAXTON, P.E., Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2003, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

TED S SORENSON
VICE PRESIDENT
RENO DITCH COMPANY
5203 SOUTH 11TH EAST
IDAHO FALLS ID 83404

KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

EXPLANATORY INFORMATION

The accompanying order is an **Order Denying Petition for Reconsideration** of the "preliminary order" issued previously in this proceeding by the department pursuant to section 67-5243, Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after the service date of this denial of petition for reconsideration of the preliminary order, any party may in writing file exceptions to any part of the preliminary order and file a brief 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.

If any party appeals or takes exceptions to the preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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 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.

6. General Information:

a. Description of diversion system Well or wells pump into Birch Creek then
redistributed at the hydropower channel. The water then goes thru
the power plant and Reno Ditch company puts water into their system

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
_____ Yes ☒ 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:

The lands irrigated will be dried up.

d. Remarks:

If this transfer is approved then surface rights
33-00087 + 33-02034 will be relinquished

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

PART 2

TRANS NO. 5760

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 33-02141

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/31	3.20 CFS	560.0 AF

SOURCE

GROUNDWATER

Priority: 01/29/1949

LOCATION OF POINT(S) OF DIVERSION:SENWSE , Sec. 19, Township 10N, Range 27E
BUTTE CountyPLACE OF USE:

IRRIGATION

				NE				NW				SW				SE				
				NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
10N	27E	19	:													14			35	49.6
10N	27E	20	:									34	40							74.5
10N	27E	29	:					37												37.9
10N	27E	30	:	05																5.2
																			TOTAL ACRES	167.2

CONDITIONS/REMARKS:

- RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
- 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.
- USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.34 CFS. COMBINED RIGHT NOS.: 33-00087 AND 33-02034.

Claim No. 33-02141

5. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 167.1 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00087 AND 33-02034.
6. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 160 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5760

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 33-02106

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/31	3.00 CFS	525.0 AF

SOURCE

GROUNDWATER

Priority: 08/07/1961

LOCATION OF POINT(S) OF DIVERSION:NENESW , Sec. 19, Township 10N, Range 27E
BUTTE CountyPLACE OF USE:

IRRIGATION

				NE				NW				SW				SE																	
				NENE	NWNE	SWNE	SENE	:				NENW	NWNW	SWNW	SENW	:				NESW	NWSW	SWSW	SESW	:				NESE	NWSE	SWSE	SESE	:	SUM
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
10N	27E	19	:				40	:								:																:	
10N	27E	20	:					:								:				03												:	3.5
10N	27E	29	:					:				11	08			:																:	20.0
10N	27E	30	:	13			.7	:								:																:	14.5
																TOTAL ACRES													150.0				

CONDITIONS/REMARKS:

- RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- 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.
- USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.14 CFS. COMBINED RIGHT NOS.: 33-00087, 33-02034, 33-02141.
- USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 307.1 ACRES IN A SINGLE

Claim No. 33-02106

IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00087, 33-02034, AND 33-02141.

5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 150 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5760

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R33-11002

STAGE: BENEFICIAL USE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	1.80 CFS

SOURCE

GROUNDWATER

Priority: 08/08/1961

LOCATION OF POINT(S) OF DIVERSION:NENESW , Sec. 19, Township 10N, Range 27E
BUTTE CountyPLACE OF USE:

IRRIGATION

			NE				NW				SW				SE						
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE			
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
10N	27E	19	:			40	:				:				:	25	36	07	03	: 112.0	
10N	27E	20	:				:				:		03		:					: 3.5	
10N	27E	29	:				:		11	08	:				:					: 20.0	
10N	27E	30	:	13			:				:				:					: 14.5	
																			TOTAL ACRES	150.0	

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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.
3. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.14 CFS. COMBINED RIGHT NOS.: 33-00087, 33-02034, 33-02141, 33-02106.
4. USE OF THIS RIGHT WITH RIGHT NO. 33-02106 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.8 CFS AND TO A TOTAL

Claim No. R33-11002

COMBINED ANNUAL DIVERSION VOLUME OF 525 AF.

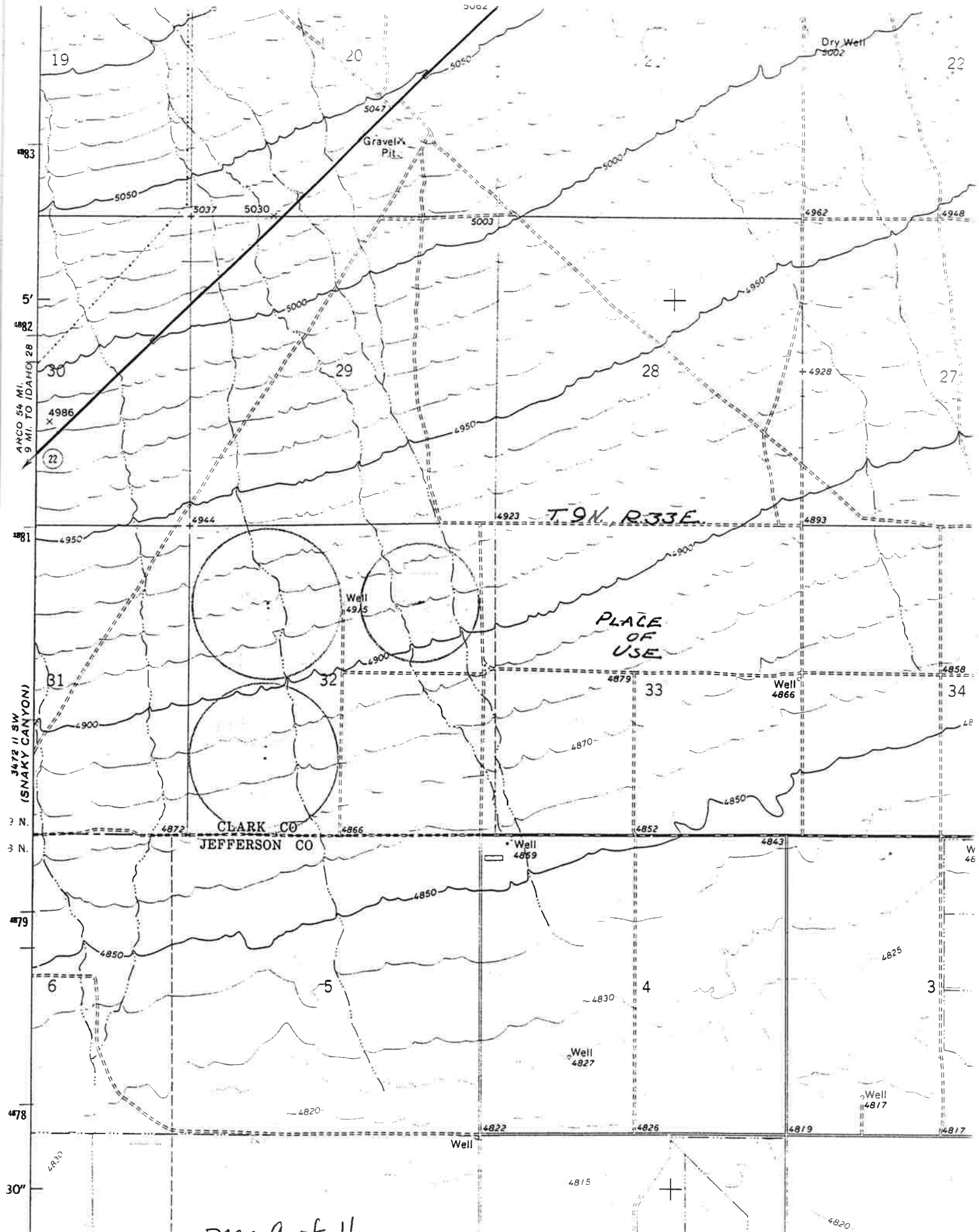
5. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 307.1 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00087, 33-02034, AND 33-02141.
6. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 150 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
6. RIGHT NO. 33-11002 IS ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.

Describe any other water rights used for the same purpose as described above:

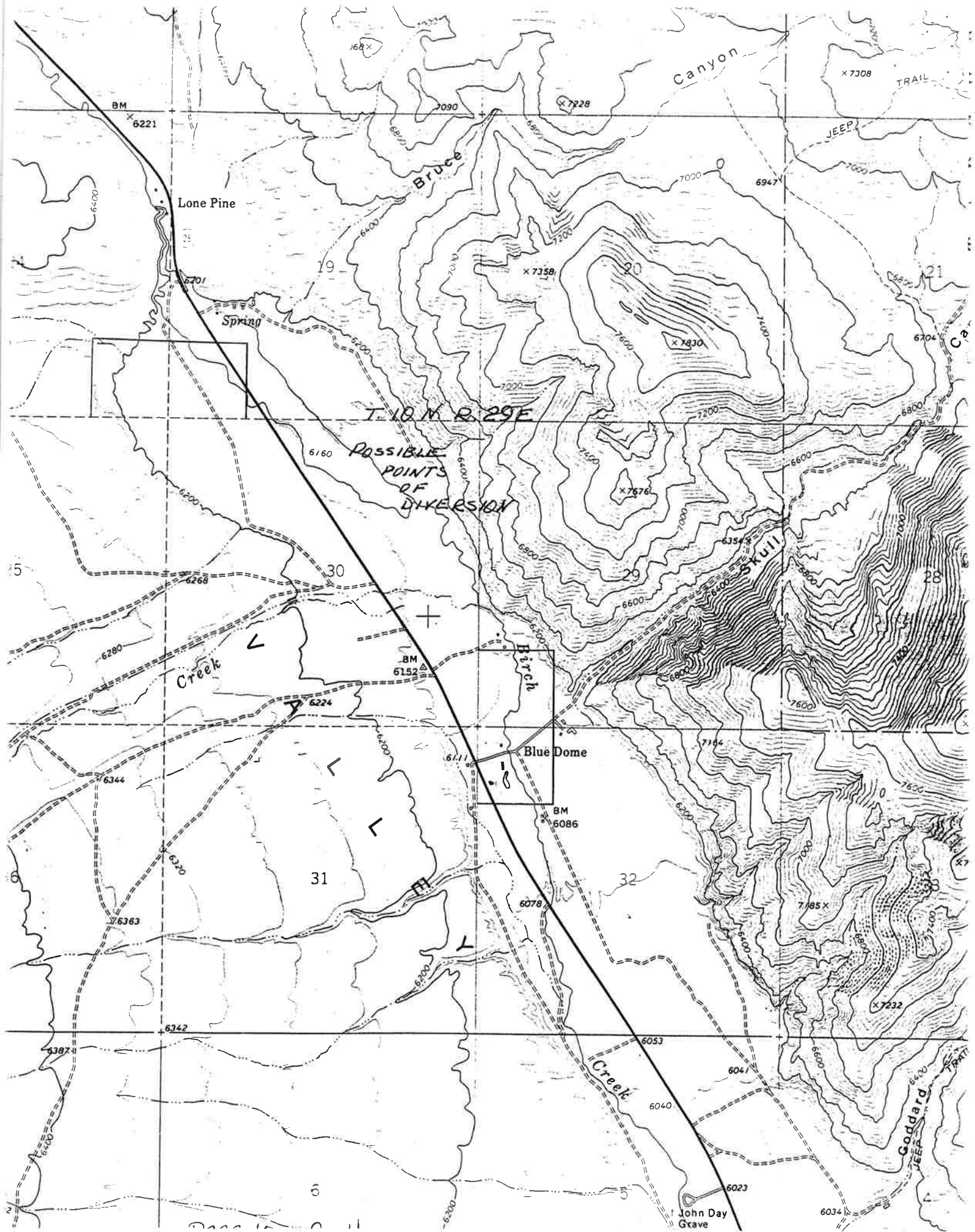
To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____



Page 1 of 11



PART 3

B. CHANGES IN NATURE OF USE

- | <u>New Nature of Use</u> | <u>Amount(cfs/af-ft)</u> | <u>Hours/days/year</u> | <u>Period of Use</u> |
|--------------------------|--------------------------|------------------------|----------------------|
| _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ to _____ |
- Quantity and quality of return flows and location of discharge:

- 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.



 (Signature of Applicant)

Subscribed and sworn to before me this 9th day of June, 20 00.

 (Notary Public)

My commission expires 9/23/03

FOR DEPARTMENT USE ONLY

Transfer contains 11 pages and _____ attachments

Received by HwJ Date 11-16-99 Protest filed by _____

Prelim. Check by _____ Fee \$100

Received by HwJ # E025472 Date 11-16-99

Published in Post Register Copies of protest forwarded by _____

Pub. Dates June 22 & 29, 2000 Hearing held by _____ Date _____

Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial

_____ received _____ by _____

Copy of transfer sent to lien holder _____



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

April 16, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Reno Ditch Company
c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

RECEIVED

APR 19 2001

Department of Water Resources
Eastern Region

RE: APPLICATION FOR TRANSFER NO. 5760 IN THE NAME OF RENO DITCH COMPANY INC.

Dear Mr. Foster:

The Reno Ditch Company has recently contacted the department seeking an expedited drilling permit in connection with the above referenced application. The application proposes to change the point of diversion and place of use of three ground water rights in the Little Lost River drainage to be diverted from ground water within the Birch Creek drainage and used in the Medicine Lodge drainage approximately 37 miles east of the original place of use..

The department's regional office has forwarded the application to this office for final review and action. Review in this office has identified two issues that are troubling to the department and need to be addressed by the applicant in order to further consider the application. The concerns are both related to potential enlargement with associated injury and are further described as follows:

1. Is the total diversion requirement and consumptive irrigation requirement at the proposed new place of use the same or less than at the original location? Please explain and provide evidence to support your response.
2. Three ground water rights and two surface water rights in the Little Lost River drainage will cease to be diverted under the proposed transfer. If the water diverted and used under these rights, in fact, is diverted and used by other rights in the Little Lost River drainage, the consumption under these rights when considered together with the use of water under the transfer appears to represent an enlargement in use of water to the detriment of other water users in the Snake Plain Aquifer. Please address this issue and/or provide information or evidence to show that this enlargement and injury will not happen or can be reasonably managed or mitigated.

Upon receipt of this information, the department will further consider the application. If you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, reading "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: Reno Ditch Company
Mud Lake Water Users Ass'n
✓ IDWR - Harold Jones
Norman C. Young



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

December 26, 2002

RE: In the Matter of Application for Transfer No. 5760 in the name of
Reno Ditch Company, Inc.

RECEIVED
DEC 30 2002
Department of Water Resources
Eastern Region

Dear Interested Parties:

I have enclosed a copy of the **NOTICE OF PROPOSED DEFAULT ORDER** in regards to the above referenced water right application.

According to IDAPA Rule of Procedure 700 states in part that if a party fails to appear or fails to respond to a written information inquiry the presiding officer may serve upon all parties a notice of a proposed default order denying the application. Additionally, IDAPA Rule of Procedure 701 states that within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered.

If you have any questions regarding the enclosed order, please contact either Mr. Saxton or me at (208) 327-7900.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

C: Parties on Certificate of Service

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

RECEIVED
DEC 30 2002
Department of Water Resources
Eastern Region

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5760 IN THE)
NAME OF RENO DITCH COMPANY,)
INC.)
_____)

**NOTICE OF PROPOSED
DEFAULT ORDER**

This matter having come before the Idaho Department of Water Resources ("Department") in the form of an application for transfer, the Department proposes to enter the following Findings of Fact, Conclusions of Law and Default Order:

FINDINGS OF FACT

1. The Department has recommended the Snake River Basin Adjudication ("SRBA") claim filed on License No. **33-02141** as follows:

Source: Ground water
Priority: January 29, 1949
Rate of diversion: 3.2 cubic feet per second ("cfs")
Point of diversion: NW1/4SE1/4 Section 19, T10N, R27E, B.M.
Use: Irrigation
Place of use: 167.2 acres within parts of Sections 19, 20, 29 and 30,
T10N, R27E, B.M.

Conditions of Approval:

Use of this right together with right nos. 33-00087 and 33-02034 shall not exceed 3.34 cfs.
Use of this right together with right nos. 33-00087 and 33-02034 is limited to 167.1 acres in a given irrigation season.
This right is limited to the irrigation of 160 acres within the above described place of use in a single irrigation season.

(Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. The Department also has recommended the SRBA claim filed on License No. **33-02106** as follows:

Source: Ground water
Priority: August 7, 1961
Rate of diversion: 3.0 cfs
Point of diversion: NESW Section 19, T10N, R27E, B.M.
Use: Irrigation
Place of use: 150 acres within parts of Sections 19, 20, 29 and 30, T10N, R27E, B.M.

Conditions of approval:

Use of this right together with right nos. 33-00087, 33-02034 and 33-02141 shall not exceed 6.14 cfs.

Use of this right when combined with right nos. 33-00087, 33-02034, and 33-02141 is limited to the irrigation of 307.1 acres in a given irrigation season.

3. The Department also has recommended SRBA Claim No. **A33-11002** filed by Ted S. Sorenson, Birch Creek Ranches, LLC as follows:

Source: Ground water
Priority: August 8, 1961
Rate of diversion: 1.8 cfs
Point of diversion: NESE Section 19, T10N, R27E, B.M.
Use: Irrigation
Season of use: April 1 to October 31
Place of use: 150 acres within parts of Sections 19, 20, 29 and 30, T10N, R27E, B.M.

Conditions of approval:

Use of this right when combined with right nos. 33-00087, 33-02034, 33-02141 and 33-02106 shall not exceed a combined rate of diversion of 6.14 cfs

Use of this right when combined with right no. 33-02106 is limited to a combined diversion rate of 4.8 cfs and 525 acre feet per annum ("AFA")

Use of this right when combined with right nos. 33-00087, 33-02034 and 33-02141 shall not be used for the irrigation of more than 307.1 acres in any irrigation season.

4. On November 16, 1999, the Reno Ditch Company, Inc. ("applicant") filed Application for Transfer No. 5760 ("application") with the Department proposing to change the point of diversion and place of use of water right nos. 33-02106, 33-02141 and R33-11002 to 306.8 acres in Section 32, T9N, R33E, B.M. The proposed points of diversion are within Sections 19, 29 and 32 in T10N, R30E, B.M. and Section 24, T10N, R29E, B.M.

5. The Department published notice of the application that was subsequently protested on July 7, 2000 by Mud Lake Water Users, Inc. ("protestant"). The protestant subsequently withdrew its protest.

6. The applicant proposes to change the place of use of water rights from the Little Lost River valley in Butte County to a place of use in the Birch Creek drainage located approximately 36 miles to the southeast in Clark County. The proposed new points of diversion are wells located near Blue Dome that are approximately 19 miles east of the authorized place of use and about 18 miles northwest of the proposed place

of use.

7. The application proposes to divert ground water near Blue Dome, inject the water into Birch Creek, redirect the water from Birch Creek at a point used by the applicant to divert surface water to a hydropower generation plant owned by the applicant, use the water in the power plant, and then convey the water on to the place of use for irrigation.

8. On April 16, 2001, the Department corresponded with the applicant seeking information related to potential enlargement of water use and potential injury to other water rights. In March 2002, the applicant responded to the information request relative to the consumptive irrigation requirement associated with the application. The response, however, did not address enlargement and injury concerns associated with a change from the Little Lost River Drainage to the Birch Creek drainage.

9. On October 24, 2002, the Department again corresponded with the applicant requesting the information and advised that failure of the applicant to provide adequate information to address the enlargement and injury issues within 30 days would result in rejection or denial of the application. The applicant did not respond to the Department's inquiry.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01700 (Rule of Procedure 700) authorizes the Department to issue a Notice of Proposed Default Order for failure to respond to a written information inquiry.

2. The applicant has not provided the requested information relative to the pending application.

3. The Department should deny the application.

DEFAULT ORDER

IT IS THEREFORE hereby ORDERED that Application for Transfer No. 5760 in the name of Reno Ditch Company, Inc. is **DENIED** for failure to respond to the information inquiry and to provide the requested information.

Signed this 26th day of December, 2002


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of December, 2002, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

TED S SORENSON
VICE PRESIDENT
RENO DITCH COMPANY
5203 SOUTH 11TH EAST
IDAHO FALLS ID 83404

HAROLD JONES
IDWR – EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718

KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Ship - Eastern



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

December 31, 2002

RE: In the matter of Application for Transfer No. 5760 in the in the name of
Reno Ditch Company, Inc.

Dear Parties:

Enclosed, is a copy of a **Notice of Conditional Withdrawal** issued in response to the request filed by Ted Sorenson on December 30, 2002 regarding the above-entitled matter. This order grants a thirty (30) day extension to the parties for submittal of information as requested by the department.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

Cc: Service List

RECEIVED
JAN 02 2003
Department of Water Resources
Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 5760 IN THE)	
NAME OF RENO DITCH COMPANY,)	NOTICE OF
INC.)	CONDITIONAL WITHDRAWAL
_____)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department issues the following Findings of Fact, Conclusions of Law and Notice of Conditional Withdrawal Order:

FINDINGS OF FACT

1. On December 26, 2002, the Department served a Notice of Proposed Default Order ("notice") upon Reno Ditch Co, Inc. ("applicant") for failure respond to an information request and to provide requested information.
2. On December 30, 2002, the applicant responded to the notice advising that he had not received the letter from the Department dated October 24, 2002 that requested additional information and that the address used by the Department to mail the notice was incorrect.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01702 (Rule of Procedure 702) authorizes the Department to withdraw a Notice of Default Order upon a satisfactory showing why a default order should not be entered.
2. The Department should conditionally withdraw the notice, since the mailing address used by the Department is incorrect.

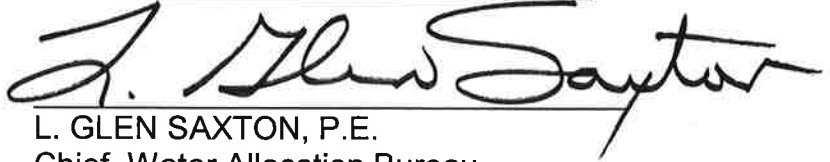
ORDER

IT IS THEREFORE, HEREBY ORDERED that the Notice of Proposed Default Order issued by the Department on December 26, 2002 in connection with Application for Transfer No. 5760 is **CONDITIONALLY WITHDRAWN** as described below:

1. The applicant shall submit the requested information within thirty (30) days of the date of service of this order.

2. Failure of the applicant to timely submit the requested information or failure to submit suitable information to respond to enlargement and injury concerns due to the proposed transfer from the Little Lost River drainage to the Birch Creek River drainage will result in reinstatement of the Notice of Proposed Default Order originally issued on December 26, 2002.

Dated this 30th day of December, 2002.


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of December, 2002, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

TED S SORENSON
VICE PRESIDENT
RENO DITCH COMPANY
5203 SOUTH 11TH EAST
IDAHO FALLS ID 83404

HAROLD JONES
IDWR – EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718

KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

~~BIRCH CREEK RANCHES, L.L.C.~~

5203 SOUTH 11TH EAST

IDAHO FALLS, IDAHO 83404

208-522-8069 FAX 208-522-8223

E-mail: ted@tsorenson.net

Reno Ditch Company

MEMORANDUM

TO: Glenn Saxton P.E. DATE: 12/30/2002
IDWR
Water Allocation Bureau
fax 208-327-7866

FROM: Ted S. Sorenson, Vice President

SUBJECT:

"Notice of Proposed Default Order"
Application for transfer 5760. (new 66127)

REMARKS:

I am in receipt of the notice of
default. I did not receive
a copy of the October 24, 2002
request for additional information.
Glenn Saxton faxed me a copy
today. The letter was addressed
to Box 349, Preston, Idaho.
I did not respond because I
did not receive the October 24th
letter. I live in Idaho Falls
I spoke with Kent Foster. He does
not recall receiving the letter.
Therefore I ~~so~~ request an
additional 30 days to respond to
the October 24th letter.

SIGNED

cc:

Best Regards
[Signature]