

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83034**

This is to certify that: **THORPE FAMILY TRUST**
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008

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

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-34599	WR/DECREED	5/1/1889	0.140 cfs	N/A	N/A	7.2	BOISE RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-34599	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-34599	63-34599	0.140 cfs	N/A	N/A	7.2	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.140 cfs	N/A	N/A	7.2		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 15th day of March, 2019.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34599

As Modified by Transfer No. 83034

In accordance with the approval of Transfer No. 83034, Water Right No. 63-34599 is now described as follows:

Right Holder: THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008

Priority Date: 5/1/1889

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/15

to 11/15

To

Diversion Rate

0.140 cfs

0.140 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

NWSW

Sec 8 Twp 05N Rge 05W CANYON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8											7.2						7.2

POU Total Acres: 7.2

CONDITIONS OF APPROVAL

1. 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.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. This right originated as all or part of right no. 114-A in the Stewart Decree and the historic Boise River Water Masters records.

Transfer No. 83034

WATER RIGHT NO. 63-34599

As Modified by Transfer No. 83034

CONDITIONS OF APPROVAL

5. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, 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, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. The point of diversion under this right is located in a slough known locally as Kallarney slough.
7. Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

State of Idaho
Department of Water Resources

Attachment to Water Right Transfer 83034

63-34599

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.

05W



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.04 0.08 0.16 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 01 2019
WATER RESOURCES
WESTERN REGION
POINT(S) OF DIVERSION

RECEIVED
JAN 31 2019
DEPARTMENT OF
WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split
- ☒ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Thorpe Family Trust Phone 208-859-2765

2. MAILING ADDRESS 23498 Boise River Road City Caldwell

State ID Zip 83607 Email jim@thorpe.biz

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 63-34599

- ☒ Attach a copy of the water right(s) as recorded, available at idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.14 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources*.

[illegible]

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

No change to current diversion system. This application is filed solely to change the legal description for a point of diversion pursuant to Idaho Code § 42-221.O.8. See attachment A.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

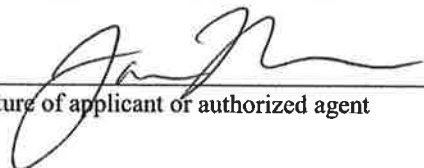
If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. You may create a map at idwr.idaho.gov, Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

James Thorpe, Trustee, Thorpe Family Trust
Print name and title if applicable

1/28/19
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes 25 pages of attachments.

Received by di

Date 1-31-19

Fee paid 50 Date 1-31-19

Received by di

Receipt # C106210

Preliminary review by P. Kelly

Date 02-26-2019

Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☒

Name on W-9

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

**IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report**

2/26/2019

Water Right 63-34599

Owner Type **Name and Address**
Current Owner THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008
(208) 859-2765

Priority Date: 5/1/1889

Basis: Decreed

Status: Active

Source **Tributary**
BOISE RIVER SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.140 CFS	
	<u>Total Diversion</u>		0.140 CFS	

Source and Point(s) of Diversion

BOISE RIVER NWNW Sec. 8, Twp 05N, Rge 05W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										7.2							7.2

POU Total Acres: 7.2

Conditions of Approval:

1. 183 Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
2. SD1 This right originated as all or part of right no. 114-A in the Stewart Decree and the historic Boise River Water Masters records.
3. 005 Use of water under this right is subject to control by the watermaster of State Water District No. 63, Boise River.
4. T07 The right holder shall accomplish the change authorized by Transfer 4215 within one (1) year of the date of the approval.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

2/26/2019

5. S49 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, 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, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. R32 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
7. B01 The point of diversion under this right is located in a slough known locally as Kallarney slough.
8. 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.
9. T08 Failure of the right holder to comply with the conditions of Transfer 4215 is cause for the Director to rescind approval of the transfer.

Comments:

1. djudd 8/10/2018 Split Right
This right is a result of split from 63-276C due to change in ownership.
2. djudd 8/10/2018 POD
Updated Shape
3. djudd 8/10/2018 POU
Updated Shape

Dates and Other Information

Decreed Date: 3/12/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 63
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

JAN 31 2019

WATER RESOURCES
WESTERN REGION**Attachment A**

to Thorpe Family Trust's Application for Transfer of Water Right No. 63-34599
pursuant to Idaho Code § 42-221.O.8

Applicant seeks to change the point of diversion (POD) of decreed water right no. 63-34599 pursuant to Idaho Code § 42-221.O.8 to correct an apparent clerical error in the decree so IDWR's records reflect the actual POD location.

According to IDWR's records:

- Attachment A-1: 63-34599's parent right is 63-276C;
- Attachment A-2: In 1990, 63-276 (a portion of right no. 114-A in the Stewart Decree and the parent of 63-276C) was claimed in the Snake River Basin Adjudication by Gerald and Virginia Schroeder;
- Attachment A-3: In 1993, the Schroeder's conveyed some of their lands, together with a portion appurtenant water right no. 63-276, to Ronald and Sharon Stutheit;
- Attachment A-4: In 1994, IDWR approved Transfer No. 4215, which split 63-276 into parts A, B, and C.
- Attachment A-5: Transfer No. 4215, in relevant part, recognized that split right no. 63-276C was owned by the Stutheits and that their POD was located in NWSW of Section 8, T5N, R5W, "in a slough known locally as Kallarney Slough
- Attachment A-6: In March 2009, 63-276C was decreed with a POD in NWNW of Section 8, T5N, R5W, and with a remark referencing Transfer No. 4215; and
- Attachment A-7: In 2018, 63-34599 was split from 63-276C to reflect a change of ownership of a portion of the appurtenant lands.

Water right no. 63-34599's current POD location in NWNW appears to be a clerical error that should be corrected to reflect NWSW to match approved Transfer No. 4215 and the fact that the right is actually diverted from the same POD on Kellarney Slough as Applicant's right nos. 63-12113, 63-33130, and 63-34598 (see Attachment A-8).

Pedigree Search (History of Water Right Number splits)

Water Right Pedigree for 63-276C

-- **Water Right Number / Status /Reason for split**

--**63-276C /Active /Ownership Change**

--**63-34599 /Active /Ownership Change**

ATTACHMENT A-1

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-00276
Date Received: 1/19/1990
Receipt No: W007786
Received By: 

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GERALD E. SCHRODER 208-722-5512
Address: PO BOX 658
PARMA, ID 83660

Name: VIRGINIA K. SCHRODER 208-722-5512
Address: PO BOX 658
PARMA, ID 83660

2. Date of Priority: MAY 01, 1889

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	05W	17	NE	NW	NW		CANYON

5. Description of diverting works:
PUMP, PIPELINE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.600		

7. Total Quantity Appropriated is:
1.600 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A63-00276

Page 1

Date: 01/19/90

ATTACHMENT A-2

MICROFILMED

AUG 17 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	05W	8	NW	SW		IRR	37.0
			SW	SW		IRR	40.0
						Section Acres	77.0
		17	NW	NW		IRR	3.0
						Section Acres	3.0
						Total Acres	80.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
TRANS. 227.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

FARMERS CO-OP DITCH CO.
Decree Plaintiff

vs

RIVERSIDE IRR. DIST.
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Gerald E. Schurder Date: Jan 19, 1990
Date:

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 19th day

of Jan 19 90

Marvin Gene Gibson
Notary Public

Seal

Residing at Boise, Idaho
My Commission Expires 9-2-1994



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

AUG 17 1993

Department of Water Resources
Western Regional Office

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 5N Range 5W
Section 8, — 1/4 of NW 1/4 of SW 1/4, Govt. Lot —, BM
Lot —, Block —, Subdivision/Townsite —

If you have additional legal descriptions, please attach separate sheet.

and SWSW 5.8, NWNW 5.17, all in T5N, R5W

- [] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

SEP 14 1993

- [x] Water Right Number(s)
Assigned by IDWR:

A63-00276

Department of Water Resources
Western Regional Office

- [x] Name and Address of Former
Owner/Claimant(s)(Seller):

Gerald E. & Virginia K. Schroeder

PO Box 658

Panna, ID.

- [] New Owner/Claimant
(Purchaser):

RONALD R. STUTHEIT & SHARON M. STUTHEIT

- [] New Mailing Address:

5400 GARY LANE

BOISE, IDAHO 83703

- [] New Telephone Number:

(208) 853-2438

- [x] Does the change in ownership result in a splitting of the water right owned/claimed? yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

35 acres in NWSW 5.8 for new owner; these

acres will have separate diversion point per transfer

appl. being filed. New owner will 20/80 of right OR

24 cfs.
70

- * [] Attach proof of
ownership, describe
proof attached:

WARRANTY DEED

- * (proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- [] Signature of New
Owner/Claimant(s)

SEE SIGNATURE ON 17 AUG 93
LETTER TO STEVE LESTER
ATTACHED...

Date

Date

- [] Signature of Former
Owner/Claimant(s):

Gerald E. Schroeder
Virginia K. Schroeder

Date 9/9/93Date 9/9/93

* (Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date _____ By: _____

Further Action Needed:

Further Action Taken

Date _____ By: _____

Final Review and Data-Entry

Date _____ By: _____

Claims Numbers of Split, if any:

ATTACHMENT A-3

MICROFILMED

OCT 02 1996

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

* NEED proof of ownership of all 80 acres in A63-00276 for
1. & 2. Also need approval letter by new
7/12/93

PCD7584

WARRANTY DEED

For value received, GERALD E. SCHRODER and VIRGINIA K. SCHRODER, husband and wife, of 28801 Hexon Road, Parma, Idaho 83660, Grantors, do hereby convey, grant, bargain, and sell unto RONALD R. STUTHEIT and SHARON M. STUTHEIT, husband and wife, as joint tenants with right of survivorship, of 5800 Gary Lane, Boise, Idaho 83703, Grantees, the following described premises in Canyon County, Idaho, to wit:

The NW $\frac{1}{4}$ SW $\frac{1}{4}$ in Section 8, T 5 N, R 5 W, BM, Canyon County, Idaho;

EXCEPTING THEREFROM: BEGINNING At the SE corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, T 5 N, R 5 W, BM, Canyon County, Idaho; thence North 760 feet along the East boundary of said NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence West along a line parallel to the North boundary of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ a distance of 126 feet; thence Southwesterly a distance of 337 feet to a point that is 325 feet West of the East boundary line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence South a distance of 486 feet to a point on the South boundary of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ that is 325 feet West of the East boundary line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence East a distance of 325 feet along the South boundary to the INITIAL POINT OF BEGINNING.

TOGETHER With all water, water rights, ditches and rights of way for ditches appurtenant thereto, including .7 cfs, decreed water rights from Boise River, #114-A

TOGETHER With all tenements, hereditaments and appurtenances thereto belonging or used in connection therewith.

To have and to hold said premises, with their appurtenances unto the said Grantees, Grantees' heirs and assigns forever. Grantors do hereby covenant to and with Grantees that Grantors are the owners in fee simple of said premises; that said premises are free from all encumbrances and that Grantors will warrant and defend the same from all lawful claims whatsoever, subject only to the following encumbrances:

1. Restrictions imposed by law, ordinance or regulation by any governmental entity, department or agency;
2. Restrictions contained in any covenants of record affecting the premises;

MICROFILMED

OCT 02 1996

4. Taxes and assessments of all taxes units not yet due and payable;
5. Reservations in patents or state grants or in acts authorizing the issuance thereof;
6. All repayment contracts between irrigation districts within which said premises are situated and any government or agency; and
7. The bonded debt of all taxing units within which said premises are located.

DATED This 7th day of June, 1993.

Gerald E. Schroder
GRANTOR

Virginia K. Schroder
GRANTOR

STATE OF IDAHO)
 : ss.
County of Canyon)

On the 7th day of June, 1993, before me,
Kimberly A. Compton, a notary public for said state, personally
appeared before me, GERALD E. SCHRODER and VIRGINIA K. SCHRODER, KAC
known or identified to me to be the persons whose names are
subscribed to the within instrument, who acknowledged to me that
they executed the same.

Kimberly A. Compton
Notary Public for Idaho
Residing at: Caldwell
My commission expires: 1-27-99

MICROFILMED
OCT 02 1998

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Decree	63-00276	Neil O'Donnell Patrick O'Donnell	1.60

SPLIT INTO PARTS A, B & C BY TRANSFER #4215

Partial Assignment	63-00276A	Arnold C. Crawforth	0.88
Partial Assignment	63-00276B	Gerald E. Schroder	0.52
Partial Assignment	63-00276C	Ronald Stutheit Sharon Stutheit	0.20

RECEIVED

FEB 23 1994

ATTACHMENT A-4

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4215 (PART)
WATER RIGHT NO. 63-00276C

This is to certify that: **RONALD STUTHEIT**
SHARON STUTHEIT
5800 GARY LANE
BOISE ID 83703

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.20 CFS	45.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BOISE RIVER	SNAKE RIVER

Priority: 05/01/1889

LOCATION OF POINT(S) OF DIVERSION: NSW , Sec. 8, Township 05N, Range 05W
CANYON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N	05W	8	NWSW 10			10
Total number of acres irrigated:						10

CONDITIONS/REMARKS:

1. Use of water under this right is subject to control by the watermaster of State Water District No. 63.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

RECORDED
FEB 23 1994

ATTACHMENT A-5

TRANSFER NO. 4215 (PART)
WATER RIGHT NO. 63-00276C

CONDITIONS/REMARKS:

6. The point of diversion under Right No. 63-00276C is located in a slough known locally as Kallarney slough.
7. Right No. 63-00276B is also changed under Transfer No. 4215 and is represented on a separate transfer approval.

Dated this 18th day of January, 1994.

J. Glen Saylor
Chief, Water Alloc. Bureau

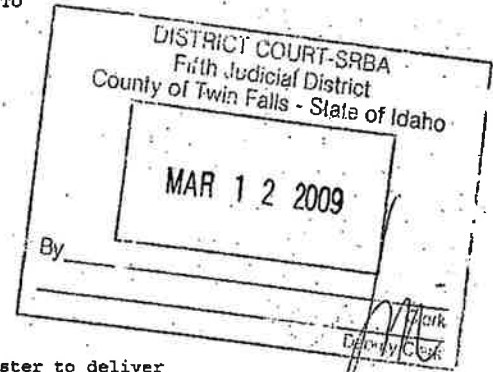
RECORDED
FEB 23 1994

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-00276C



NAME AND ADDRESS: RONALD R STUTHEIT
SHARON M STUTHEIT
28900 HEXON RD
PARMA, ID 83660-6604

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.20 CFS

Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 05/01/1889

POINT OF DIVERSION: T05N R05W S08 NWNW Within Canyon County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-15 TO 11-15	0.20 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE of the SE of the SE, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, 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, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: Irrigation Within Canyon County
T05N R05W S08 NWSW 10.0
10.0 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall accomplish the change authorized by Transfer 4215 within one (1) year of the date of the approval.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

ATTACHMENT A-6

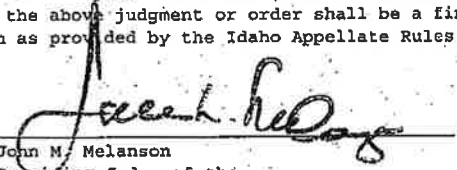
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 13, 2018

THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL ID 83607

Re: Change in Water Right Ownership: 63-276A (Split into 63-276A and **63-34598**), **63-276C** (Split into **63-276C** and **63-34599**), 63-12113, and 63-33130 (Permit)

Dear Water Right Holder:

The Department acknowledges the receipt of correspondence changing ownership of the above referenced water rights to you. The Department has modified its records based on the information received to reflect the change in ownership and has enclosed a computer-generated report for your records.

Your portion of these water rights has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under these rights, including adding a new point of diversion, then an Application for Transfer on your portion of these rights is required. Please note that the point of diversion for water rights 63-276C and 63-34599 does not appear to be consistent with the source based on the decree. You may want to file a transfer to update the record. Please contact this office for further information on the Application for Transfer form or you can find the forms at www.idwr.idaho.gov. If you do not plan on changing any items on your water rights, then no further action is required at this time.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing an ownership change notice the department does not review the history of water use to determine if the right has been forfeited through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Also note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right, to the Department. Notice of the change must be provided to the Department within **120 days** of the change.

Please feel free to contact me at 208-287-4920 if you have any questions concerning the enclosed information or this letter.

Sincerely,

Debbi Judd

Technical Records Specialist

Enclosures

C. Water District 63
Michael P. Lawrence – Givens Pursley

ATTACHMENT A-7

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

Water Right 63-12113

Owner Type **Name and Address**
Current Owner THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008
(208) 859-2765

Priority Date: 4/25/1994

Basis: License

Status: Active

Source **Tributary**
BOISE RIVER SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.120 CFS	18.0 AF
	<u>Total Diversion</u>		0.120 CFS	18.0 AF

Source and Point(s) of Diversion

BOISE RIVER NENWSW Sec. 8, Twp 05N, Rge 05W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										4.0							4.0

POU Total Acres: 4.0

Conditions of Approval:

1. 11E The Director retains jurisdiction of this right to require streamflow augmentation or other action determined to be appropriate to protect prior surface water or ground water rights. Such stream flow augmentation or other action will be required only upon a determination of need and applicability by the Director.
2. Point of diversion is located in slough known locally as Kallarney Slough.
3. R69 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
5. 103 When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

- mitigation and the amount of mitigation are determined.
6. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
7. X36 Right 63-276C is also diverted through the point of diversion described above.

Comments:

1. nvandyke 8/31/2007 Field Report Narrative
POD is located in what is locally known as the Kallarney Slough, roughly 1/4 mile from Boise River near Parma. POD also diverts water to 63-276C. Applicant is also owner of that right. From POD water is piped underground 300ft around Kallarney Slough to 4 acre POU. Water is then brought to surface and feed into 6inch perforated pipe that runs 3/4 length of eastern edge of POU. 0.86 cfs was measured with ultrasonic flowmeter when full system capacity was diverted to THIS RIGHT ONLY. This right will be limited to 0.12 cfs (0.03 inch/acre - 4 acre POU). Note that this right was permitted with irrigation season running from 3/15 - 11/15. However POU falls within area with irrigation season from 3/01 - 11/15. Beneficial Use report was updated with this change.
2. nvandyke 9/5/2007 POD
Updated shape
3. nvandyke 9/5/2007 POU
Updated Shape
4. nvandyke 9/5/2007 POU
Updated PLS
5. mciscell 5/2/2012 POD
PODID 706511 correlated from SpatialDataID 379670 to SpatialDataID 439443
6. mciscell 5/2/2012 POD
PODID 706511 correlated from SpatialDataID 439443 to SpatialDataID 379670
7. mciscell 4/29/2013 POD
PODID 706511 correlated from SpatialDataID 379670 to SpatialDataID 439443

Dates and Other Information

Licensed Date: 9/17/2007
Water District Number: 63
Generic Max Rate Per Acre: 0.030
Generic Max Volume Per Acre: 4.5
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

**IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report**

8/10/2018

Water Permit 63-33130

Owner Type **Name and Address**
Current Owner THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008
(208) 859-2765

Priority Date: 11/13/2008

Status: Active

Source **Tributary**
WASTE WATER BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.280 CFS	
	<u>Total Diversion</u>		0.280 CFS	

Source and Point(s) of Diversion

WASTE WATER NENWSW Sec. 8, Twp 05N, Rge 05W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										14.0							14.0

POU Total Acres: 14.0

Conditions of Approval:

1. 176 The waste water diverted under this right is 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 of use or manner of wasting it, or to recapture it.
2. 004 This right does not grant any right-of-way or easement across the land of another.
3. 26A Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. 01J Prior to diversion of water under this right, the right holder shall install and maintain a lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. R65 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 lands above.
6. 121 The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

7. R05 permit.
Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
8. X59 Point of diversion is located within an area locally known as Kallarney Slough.
9. This right has the same point of diversion and place of use as # 63-00276C and 63-12113 but has a waste water source.
10. 01M The right holder shall maintain a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted.
11. 198 When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.

Comments:

- | | | | |
|----|---|-----------|--------------------|
| 1. | jhersley | 9/24/2009 | POD |
| | Updated Shape | | |
| 2. | jhersley | 9/24/2009 | POU |
| | Updated Shape | | |
| 3. | csaxton | 9/29/2011 | Updated Conditions |
| | Updated measuring device conditions per 9-29-11 order. | | |
| 4. | mciscell | 5/2/2012 | POD |
| | PODID 761950 correlated from SpatialDataID 400827 to SpatialDataID 439443 | | |
| 5. | mciscell | 5/2/2012 | POD |
| | PODID 761950 correlated from SpatialDataID 439443 to SpatialDataID 379670 | | |
| 6. | mciscell | 4/29/2013 | POD |
| | PODID 761950 correlated from SpatialDataID 379670 to SpatialDataID 439443 | | |

Dates and Other Information

Permit Proof Due Date: 10/1/2011
Permit Proof Made Date: 8/10/2011
Permit Approved Date: 10/6/2009
Water District Number: 63
Generic Max Rate Per Acre: 0.020
Generic Max Volume Per Acre: 4.5
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

Water Right 63-34598

Owner Type **Name and Address**
Current Owner THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008
(208) 859-2765

Priority Date: 5/1/1889

Basis: Decreed

Status: Active

Source
BOISE RIVER

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/01	11/15	0.020 CFS	
	Total Diversion		0.020 CFS	

Source and Point(s) of Diversion

BOISE RIVER NWSW Sec. 8, Twp 05N, Rge 05W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										1.0							1.0

POU Total Acres: 1.0

Conditions of Approval:

1. 183 Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
2. 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.
3. B01 The point of diversion under this right is located is a slough known locally as the

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

- Kallarney slough.**
4. SD1 This right originated as all or part of right no. 114-A in the Stewart Decree and the historic Boise River Water Masters records.
 5. S49 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, 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, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

Comments:

- | | | | |
|--|-------|-----------|-------------|
| 1. | djudd | 8/10/2018 | Split Right |
| This right is a result of split from 63-276A due to change in ownership. | | | |
| 2. | djudd | 8/10/2018 | POD |
| Updated Shape | | | |
| 3. | djudd | 8/10/2018 | POU |
| Updated Shape | | | |

Dates and Other Information

Decreed Date: 2/6/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 63
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/10/2018

Water Right 63-34599

Owner Type **Name and Address**
Current Owner THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL, ID 83607-9008
(208) 859-2765

Priority Date: 5/1/1889

Basis: Decreed

Status: Active

Source
BOISE RIVER

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	0.140 CFS	
	Total Diversion		0.140 CFS	

Source and Point(s) of Diversion

BOISE RIVER

~~NWNW~~
(should be NWSW)

Sec. 8, Twp 05N, Rge 05W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										7.2							7.2

POU Total Acres: 7.2

Conditions of Approval:

1. SD1 This right originated as all or part of right no. 114-A in the Stewart Decree and the historic Boise River Water Masters records.
2. T08 Failure of the right holder to comply with the conditions of **Transfer 4215** is cause for the Director to rescind approval of the transfer.
3. B01 **The point of diversion under this right is located in a slough known locally as Kallamey slough.**
4. 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.
5. 183 Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights

IDAHO DEPARTMENT OF WATER RESOURCES

8/10/2018

Proof Report

- containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
6. R32 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
 7. S49 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, 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, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
 8. T07 The right holder shall accomplish the change authorized by Transfer 4215 within one (1) year of the date of the approval.
 9. 005 Use of water under this right is subject to control by the watermaster of State Water District No. 63, Boise River.

Comments:

1. djudd 8/10/2018 Split Right
This right is a result of split from 63-276C due to change in ownership.
2. djudd 8/10/2018 POD
Updated Shape
3. djudd 8/10/2018 POU
Updated Shape

Dates and Other Information

Decreed Date: 3/12/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 63
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

State of Idaho
Department of Water Resources

Water Right
63-34599

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.1 0.2 0.4 Miles





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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 15, 2019

THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL ID 83607-9008

Re: Transfer No.: 83034
Water Right Nos: 63-34599

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Rights 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,


Anna Kaist

 Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2019 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.: 83034
Water Right No(s): 63-34599

THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL ID 83607-9008

A handwritten signature in blue ink, appearing to read "Anna Kaiser", is written over a horizontal line.

Anna Kaiser
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. **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:**

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 received 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. 83034
FROM: Patrick Kelly
DATE: 2/26/2019
RE: Evaluation of Application

Summary of Information Submitted

Thorpe Family Trust filed transfer no. 83034 to change the point of diversion description under water right 63-34599. According to the transfer application no changes to the system are proposed. The purpose of the transfer is to change the legal description to match the actual location of the diversion.

Water right records show that in 1994 parent right 63-276 was split via transfer 4215. 67-276C authorized a POD within the NWSW of Sec 8. A map of the POD and POU can be found as attachment B to Transfer 4215. The map shows a diversion and use with the NWSW of Sec 8. In 2007, a recommendation for the right was made with a POD legal description of NWNW. In 2009 63-276C was decreed with a POD in the NWNW with conditions that referenced changes pursuant to transfer 4215.

From the information I have available to me, I cannot determine the source of the discrepancy between transfer 4215 and the 63-276C decree. There are no formal actions taken by the user or department that would have changed the POD location. Attachments to Transfer 4215 clearly identify the beneficial use within the NWSW of Sec. 8.

An ownership change was filed in 2018 that split portion of 63-276C to 63-34599.

Idaho statute 42-221.O.8. states that when change only to the legal description for the point of diversion when there will be no physical change occurring the filing fee shall be \$50 per right.

Authority to File

The application was filed in the name of Thorpe Family Trust and signed by James Thorpe. Current county taxlot data shows Thorpe Family Trust owns the property pertinent to the water right. Right 63-34599 is in the name of the trust.

Water Right Validity

63-276C was decreed in 2009. 2017 aerial imagery shows irrigation/development within the place of use. Concerns over validity are not present at this time.

Overlap Analysis

63-34599 is the only water right pertinent to the land pertinent to the application. 63-33130 is a permit owned by the trust for wastewater. An acre combined use may be applied to conditions if the permit is issued to license. At this time, no other rights should be considered for this transfer.

Injury to Other Water Rights

None anticipated. Irrigation use has been occurring as far back as I can observe using available imagery. This application qualifies for approval without advertising since the change does not affect the original or hydraulically-connected source.

Enlargement of Use

Changes to the diversion limits authorized by the water right are not occurring and there are no combined use limits to consider or unstack.

Local Public Interest

No 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.