

Skinner, Corey

From: Cefalo, James
Sent: Wednesday, October 12, 2016 9:15 AM
To: Skinner, Corey
Subject: FW: Scarrow - Permit / Transfer

From: Travis Thompson [mailto:tlt@idahowaters.com]
Sent: Tuesday, September 27, 2016 9:52 AM
To: Gary Slette; Cefalo, James
Subject: RE: Scarrow - Permit / Transfer

Gary, James

I noticed an error in my proposed condition #10 since it includes "this right", I removed 36-17070 since it is covered. Any thoughts on this?

10. This right when combined with water rights 36-10446 and 36-15094 shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Thanks,

Travis

From: Gary Slette [mailto:gslette@rsidaholaw.com]
Sent: Wednesday, September 21, 2016 11:34 AM
To: Cefalo, James; Travis Thompson
Cc: Cliff Jensen; Suzanne Jensen
Subject: RE: Scarrow - Permit / Transfer

I think my clients felt your original language was appropriate.

Gary

From: Cefalo, James [mailto:James.Cefalo@idwr.idaho.gov]
Sent: Wednesday, September 21, 2016 11:33 AM
To: Gary Slette; Travis Thompson
Cc: Cliff Jensen; Suzanne Jensen
Subject: RE: Scarrow - Permit / Transfer

Gary,

I included the standard condition in the original draft. However, the language of standard conditions can be changed to accommodate unique situations. If the language changes proposed by Travis more accurately describe the understanding of the parties, I have no objection to making the proposed change.

James

From: Gary Slette [<mailto:gslette@rsidaholaw.com>]
Sent: Wednesday, September 21, 2016 11:21 AM
To: Travis Thompson; Cefalo, James
Cc: Cliff Jensen; Suzanne Jensen
Subject: RE: Scarrow - Permit / Transfer

Jim,

My clients have reviewed the changes proposed by the applicant. With regard to the IDWR's proposed terms for the permit, isn't it standard to use the term "when combined with all other rights" as you originally had in Paragraph No. 8?

Thanks,

Gary

From: Travis Thompson [<mailto:tlt@idahowaters.com>]
Sent: Thursday, September 15, 2016 10:23 AM
To: 'Cefalo, James'
Cc: Gary Slette
Subject: FW: Scarrow - Permit / Transfer

James,

Resending with a "pdf" of the transfer, the "rtf" file was 16 MB and the first email to you bounced back as undeliverable.

Thanks,

Travis

From: Travis Thompson
Sent: Thursday, September 15, 2016 10:12 AM
To: 'Cefalo, James'; 'Gary Slette (gslette@rsidaholaw.com)'
Cc: Hattie Zobott (hattie.zobott@brockwayeng.com); Jim Scarrow (jdsc64@yahoo.com)
Subject: Scarrow - Permit / Transfer

James, Gary

Please see the attached documents with proposed changes on behalf of my client. I have attempted to provide an explanation for our proposed changes below:

Permit 36-17070

We are proposing to remove condition #3 and replace with new conditions #3 - #5 to clarify that the new wastewater permit is limited to a total diversion rate and irrigation of 46.1 acres when combined with the existing "waste water" and the "unnamed stream" water rights. The total irrigation (of either the wastewater or Birch Creek) rights is still limited to 46.1 acres total as well, reflected in condition #4.

Since the applicant plans to substitute wastewater use for Birch Creek use we believe condition #5 helps clarify that practice. I also edited condition #10 to clarify the combined use of the waste water and unnamed stream water rights.

Transfer 80835

We revised the acreage listed on page 1 in reference to 37-798 to "42" since that is the correct number under the right. We also revised the calculations on most of the rights slightly to accurately reflect the quantities for irrigation and

mitigation contributed by each right. See the attached worksheet prepared by Hattie (Scarrow Farm Analysis Spreadsheet).

If you have any questions or if we need a call to discuss please advise.

Thanks,

Travis

Travis L. Thompson
Barker Rosholt & Simpson LLP
163 Second Ave. West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Tel: (208) 733-0700
Fax: (208) 735-2444

CONFIDENTIALITY NOTICE: This email and its attachments are confidential and may be privileged. If you believe this email has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute, or copy this transmission.

Exhibit A
Jim Scarrow
Pond Storage Volume
Brockway Engineering, PLLC

3/11/2016 9/14/2016 Revised

Description	Volume		Notes
Pond Volume	6.07	afa	NRCS contract 6-7 afa, Scarrow Measured 02/03/16
Surface Area	1.02	afa	44361 ft^2
Evaporation	3.03	afa	
Seepage for pond	0.11	afa	99.55 gpd
Total Fill	9.21	afa	
Dry Up*	2.50	acres	
*Only evaporation and initial fill considered. See narrative for explanation			

Historic Consumptive Use	3.68	afa	Allan and Robison 2012
Max IDWR Irrigation Diversion Rate	0.02	cfs	per Idaho Code 42-202
Max IDWR Diversion Volume to Storage for Irrigation	5	afa	per Idaho Code 42-202
Headgate allowance for Hagerman	4	afa	
Seepage for High Plasticity Clay	0.0003	ft/day	
Seepage/acre of irrigation	0.32	afa	

Multiple Fill Volume Calculations		
Acreage for Additional Fill Volume Needed	28.2	acres
Irrigation Storage Needed	141.0	afa
Irrigation Diversion—Flow Through	0.56	cfs

Mitigation By Source												
Irrigation Diversion	Before Mitigation				Dry Up				Net Irrigation			
Total Acreage Birch Creek	48.6	acres	2.54	cfs	2.5	acres	0.131	cfs	46.1	acres	2.409	cfs
37-795	48.6	acres	0.70	cfs	2.5	acres	0.036		46.1	acres	0.664	cfs
37-796	48.6	acres	0.70	cfs			0.007		46.1	acres	0.693	cfs
37-798	42.0	acres	0.64	cfs			0.038		39.5	acres	0.602	cfs
37-3155	25.0	acres	0.50	cfs			0.050		22.5	acres	0.450	cfs
					subtotal		0.131		46.1	acres	2.409	cfs
Waste Water Acreage/Unnamed Stream												
36-15094	20.4	acres	0.61	cfs	2.5	acres	0.074884	cfs	17.9	acres	0.54	cfs
36-10446	3.0	acres	0.09	cfs	2.5	acres	0.075	cfs	0.5	acres	0.02	cfs
Net Irrigation**									46.1	acres		
**While Pond Permit in Existence												

State of Idaho
Department of Water Resources

Permit to Appropriate Water (Draft)

NO. 36-17070

Priority: March 11, 2016

Maximum Diversion Rate: 3.00 CFS
Maximum Diversion Volume: 141.0 AF

This is to certify, that JIM D SCARROW
3184 S 1900 E
WENDELL ID 83355

has applied for a permit to appropriate water from:

Source: WASTE WATER

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC	01/01 to 12/31	3.00 CFS	
WILDLIFE	01/01 to 12/31	3.00 CFS	
WILDLIFE STORAGE	01/01 to 12/31		9.1 AF
AESTHETIC STORAGE	01/01 to 12/31		9.1 AF
IRRIGATION	03/15 to 11/15	0.56 CFS	
IRRIGATION FROM STORAGE	03/15 to 11/15		141.0 AF
IRRIGATION STORAGE	03/15 to 11/15		141.0 AF
DIVERSION TO STORAGE	03/15 to 11/15	3.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER	L4 (SW¼ NW¼) Sec. 1, Twp 07S, Rge 13E, B.M.	GOODING County
WASTE WATER	L4 (SW¼ NW¼) Sec. 1, Twp 07S, Rge 13E, B.M.	GOODING County

PLACE OF USE: AESTHETIC, WILDLIFE, WILDLIFE STORAGE, AESTHETIC STORAGE, IRRIGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 13E 35											X						

PLACE OF USE: IRRIGATION, IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 13E 34													2.9			39.0	41.9
06S 13E 35											36.0						36.0
07S 13E 1							6.0										6.0
07S 13E 2			6.8	28.0			L 4										34.8
			L 2	L 1													

Total Acres: 118.7

State of Idaho
Department of Water Resources

Permit to Appropriate Water (Draft)

NO. 36-17070

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before October 1, 2021.
2. Subject to all prior water rights.
3. ~~Rights 37-795, 37-796, 37-798, 37-3155, 36-10446, 36-15094 and 36-17070 when combined shall not exceed a total irrigation diversion rate of 0.92 cfs and the irrigation of 46.1 acres. When combined, the total diversion of waste water and the unnamed stream under water rights 36-10446, 36-15094, and 36-17070 shall not exceed 0.92 cfs and the irrigation of 46.1 acres.~~
4. ~~Irrigation under water rights 36-10446, 36-15094, 36-17070, 37-795, 37-796, 37-798, and 37-3155 shall not exceed 46.1 acres.~~
5. ~~Wastewater is intermittently available, but when available will be diverted and used to substitute for diversion and use of water from Birch Creek under water rights 37-795, 37-796, 37-798, and 37-3155.~~
64. To mitigate for the depletion of water resulting from the storage of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation by non-use. The mitigating right may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Acres
37-795	Irrigation	0.04	2.5
37-796	Irrigation	0.04	2.5
37-798	Irrigation	0.03	2.2
37-3155	Irrigation	0.03	1.3
36-10446	Irrigation	0.01	0.2
36-15094	Irrigation	0.03	1.0
Total		0.17	2.5

The land that will no longer be irrigated under this right is located within Lots 1 and 2, Sec. 2, T07S, R13E. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

75. 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. 130.
86. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
97. 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.
108. This right when combined with water rights 36-10446, 36-15094, and 36-17070 ~~all other rights~~ shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

State of Idaho
Department of Water Resources

Permit to Appropriate Water (Draft)

NO. 36-17070

119. The pond established by the storage of water under this right shall not exceed a total capacity of 6.1 acre-feet or a total surface area of 1.1 acres.

120. This right authorizes the storage of an annual total of 141 acre-feet, 6.1 acre-feet to be used for the initial filling or carryover storage of the pond, 3.0 acre-feet for the replacement of losses due to seepage and evaporation, and up to 131.8 acre-feet for additional refills for irrigation from storage use.

131. Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this _____ day of _____, 20_____.

GARY SPACKMAN, Director

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80835**

This is to certify that: **JIM D SCARROW**
3184 S 1900 E
WENDELL, ID 83355

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>
36-10446	WR/DECREED	3/15/1961	0.090 cfs	N/A	N/A	3.0	UNNAMED STREAM
36-15094	WR/DECREED	3/15/1961	0.610 cfs	N/A	N/A	20.4	WASTE WATER
37-3155	WR/DECREED	5/14/1934	0.500 cfs	N/A	25.0	48.6	SOUTH FORK BIRCH CREEK
37-795	WR/DECREED	6/30/1878	0.700 cfs	N/A	N/A	48.6	BIRCH CREEK, SOUTH FORK BIRCH CREEK
37-796	WR/DECREED	6/30/1880	0.700 cfs	N/A	N/A	48.6	BIRCH CREEK, SOUTH FORK BIRCH CREEK
37-798	WR/DECREED	6/30/1878	0.640 cfs	N/A	421.0	48.6	BIRCH CREEK, SOUTH FORK BIRCH CREEK

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>
36-10446	NO	NO	YES	NO	NO	NO
36-15094	NO	NO	YES	YES	NO	NO
37-3155	NO	NO	YES	NO	NO	NO
37-795	NO	NO	YES	NO	NO	NO
37-796	NO	NO	YES	NO	NO	NO
37-798	NO	NO	YES	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>
36-10446	36-10446	0.090 cfs	N/A	3.0	118.7	N/A	N/A	N/A	N/A	N/A
36-15094	36-15094	0.610 cfs	N/A	20.4	118.7	N/A	N/A	N/A	N/A	N/A
37-3155	37-3155	0.500 cfs	N/A	25.0	118.7	N/A	N/A	N/A	N/A	N/A
37-795	37-795	0.700 cfs	N/A	48.6	118.7	N/A	N/A	N/A	N/A	N/A
37-796	37-796	0.700 cfs	N/A	48.6	118.7	N/A	N/A	N/A	N/A	N/A
37-798	37-798	0.640 cfs	N/A	42.0	118.7	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.240 cfs	N/A	48.6	118.7		N/A	N/A	N/A	N/A

Transfer No. 80835

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80835**

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 _____ day of _____, _____.

Chief, Water Allocation Bureau

Transfer No. 80835

WATER RIGHT NO.**As Modified by Transfer No. 80835**

In accordance with the approval of Transfer No. 80835, Water Right No. 37-795 is now described as follows:

Right Holder: JIM D SCARROW
3184 S 1900 E
WENDELL, ID 83355

Priority Date: 6/30/1878

Source: BIRCH CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	0.660 cfs
STOCKWATER	01/01	to 12/31	0.050 cfs
MITIGATION BY NON-USE	03/15	to 11/15	0.040 cfs
			0.700 cfs

LOCATION OF POINT(S) OF DIVERSION

BIRCH CREEK NWSESE Sec 34 Twp 06S Rge 13E GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											38.0						38.0
07S	13E	1							6.0										6.0
									L 4										
07S	13E	2			6.8	28.0													34.8
					L 2	L 1													

Right Acre Limit: 48.6

POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L 2	L 1													

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34																X	

Transfer No. 80835

WATER RIGHT NO.

As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 48.6 acres within the authorized place of use in a single irrigation season.
2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.
3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 36-10446**As Modified by Transfer No. 80835**

In accordance with the approval of Transfer No. 80835, Water Right No. 36-10446 is now described as follows:

Right Holder: JIM D SCARROW
3184 S 1900 E
WENDELL, ID 83355

Priority Date: 3/15/1961

Source: UNNAMED STREAM

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
MITIGATION BY NON-USE

From

02/15
02/15

To

to 11/30
to 11/30

Diversion Rate

0.01580 cfs
0.07540 cfs
0.090 cfs

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM L1 (SWSENE) Sec 2 Twp 07S Rge 13E GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											38.0						38.0
07S	13E	1							6.0										6.0
									L 4										
07S	13E	2			6.8	28.0													34.8
					L 2	L 1													

Right Acre Limit: 3.0
POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L 2	L 1													

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 3 acres within the authorized place of use in a single irrigation season.
2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.

Transfer No. 80835

WATER RIGHT NO. 36-10446
As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, 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 08/28/2014.

WATER RIGHT NO. 36-15094**As Modified by Transfer No. 80835**

In accordance with the approval of Transfer No. 80835, Water Right No. 36-15094 is now described as follows:

Right Holder: JIM D SCARROW
3184 S 1900 E
WENDELL, ID 83355

Priority Date: 3/15/1961

Source: WASTE WATER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
MITIGATION BY NON-USE

From

02/15
02/15

To

to 11/30
to 11/30

Diversion Rate

0.53580 cfs
0.075640 cfs
0.610 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER	L4 (SWNW)	Sec 1	Twp 07S Rge 13E	GOODING County
WASTE WATER	L4 (SWNW)	Sec 1	Twp 07S Rge 13E	GOODING County
WASTE WATER	L1 (NESENE)	Sec 2	Twp 07S Rge 13E	GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											36.0						36.0
07S	13E	1							6.0										6.0
									L 4										
07S	13E	2			6.8	28.0													34.8
					L 2	L 1													

Right Acre Limit: 20.4

POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L 2	L 1													

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 41 acres within the authorized place of use in a single irrigation season.

Transfer No. 80835

WATER RIGHT NO. 36-15094
As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.
3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO.**As Modified by Transfer No. 80835**

In accordance with the approval of Transfer No. 80835, Water Right No. 37-796 is now described as follows:

Right Holder: JIM D SCARROW
3184 S 1900 E
WENDELL, ID 83355

Priority Date: 6/30/1880

Source: BIRCH CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
MITIGATION BY NON-USE

From

03/15
03/15

To

to 11/15
to 11/15

Diversion Rate

0.69369 cfs
0.00749 cfs
0.700 cfs

LOCATION OF POINT(S) OF DIVERSION

BIRCH CREEK

NWSESE

Sec 34 Twp 06S Rge 13E GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											36.0						36.0
07S	13E	1							6.0										6.0
									L4										
07S	13E	2			6.8	28.0													34.8
					L2	L1													

Right Acre Limit: 48.6

POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L2	L1													

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 48.6 acres within the authorized place of use in a single irrigation season.
2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.

Transfer No. 80835

WATER RIGHT NO.

As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO.
As Modified by Transfer No. 80835

In accordance with the approval of Transfer No. 80835, Water Right No. 37-798 is now described as follows:

Right Holder: JIM D SCARROW
 3184 S 1900 E
 WENDELL, ID 83355

Priority Date: 6/30/1878

Source: BIRCH CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
 MITIGATION BY NON-USE

From

03/15
 03/15

To

to 11/15
 to 11/15

Diversion Rate

0.60249 cfs
 0.0380 cfs
 0.640 cfs

LOCATION OF POINT(S) OF DIVERSION

BIRCH CREEK

NWSESE

Sec 34 Twp 06S Rge 13E GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											38.0						38.0
07S	13E	1							6.0										6.0
									L4										
07S	13E	2			6.8	28.0													34.8
					L2	L1													

Right Acre Limit: 42.0

POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L2	L1													

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 42 acres within the authorized place of use in a single irrigation season.
2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.

Transfer No. 80835

WATER RIGHT NO.
As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 37-3155**As Modified by Transfer No. 80835**

In accordance with the approval of Transfer No. 80835, Water Right No. 37-3155 is now described as follows:

Right Holder: JIM D SCARROW
3184 S 1900 E
WENDELL, ID 83355

Priority Date: 5/14/1934

Source: SOUTH FORK BIRCH CREEK

Tributary: BIRCH CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	0.4570 cfs
STOCKWATER	01/01	to 12/31	0.050 cfs
MITIGATION BY NON-USE	03/15	to 11/15	0.0530 cfs
			0.500 cfs

LOCATION OF POINT(S) OF DIVERSION

SOUTH FORK BIRCH CREEK NESWSW

Sec 35 Twp 06S Rge 13E GOODING County

PLACE OF USE:

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													2.9			39.0	41.9
06S	13E	35											36.0						36.0
07S	13E	1							6.0										6.0
									L 4										
07S	13E	2			6.8	28.0													34.8
					L 2	L 1													

Right Acre Limit: 25.0

POU Total Acres: 118.7

PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X	X													
					L 2	L 1													

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													X			X	
07S	13E	2			X	X													
					L 2	L 1													

Transfer No. 80835

WATER RIGHT NO. 37-3155
As Modified by Transfer No. 80835

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 25 acres within the authorized place of use in a single irrigation season.
2. Rights 36-10446, 36-15094, 37-795, 37-796, 37-798 and 37-3155 when combined shall not exceed a total diversion rate of 3.24 cfs and the irrigation of 48.6 acres.
3. 2.5 acres of the 48.6 acres authorized under combined rights 37-795, 37-796, 37-798, 37-3155, 36-10446 and 36-15094 are held unused to mitigate for depletions resulting from the storage pond described under water right 36-17070.
4. 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. 130.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, 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.

Transfer proposes combining five irrigation groundwater rights and 6 Cassia Creek irrigation rights on an existing farm located approximately 2.3-3.8 mi. north of the center of the City of Malta. In total six existing wells (9.3 cfs) and three existing Cassia Creek diversions (12.73cfs) will divert up to 22.03 cfs for the irrigation of 798 acres within a new 826 acre permissible place of use.