

Amended

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Amended

TRANSFER OF WATER RIGHT
TRANSFER NO. 79285

This is to certify that: RIVERSIDE VILLAGE HOMEOWNERS ASSOCIATION INC
C/O PAT LIDDELL
ADVANTAGE IDAHO
P.O. BOX 140273
BOISE, ID 83714

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>
63-9718	WR/DECREED	4/3/1981	3.210 cfs	127.5 af	11.0	66.6	BOISE RIVER, VILLAGE LAKE

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
63-9751	WR/DECREED	6/23/1981	3.210 cfs	2324.0 af		N/A	BOISE RIVER
63-31832	WR/DECREED	6/1/1865	49.510 cfs	10266.0 af		17.2	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>
63-9718	NO	NO	NO	YES	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>
63-9718	63-9718	3.210 cfs	127.5 af	11.0	66.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.210 cfs	N/A	11.0	66.6		N/A	N/A	N/A	N/A

SUPPORT DATA

Transfer No. 79285

IN FILE # 63-9718

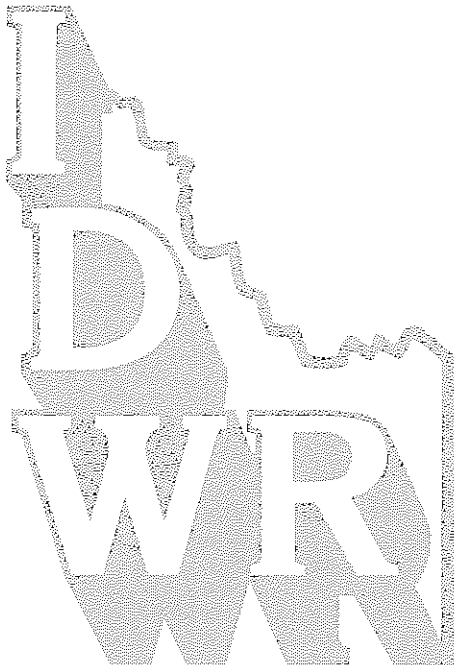
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79285

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 17th day of December, 2015.


for Chief, Water Allocation Bureau



WATER RIGHT NO. 63-9718**Amended****As Modified by Transfer No. 79285****Amended**

In accordance with the approval of Transfer No. 79285, Water Right No. 63-9718 is now described as follows:

Right Holder: RIVERSIDE VILLAGE HOMEOWNERS ASSOCIATION INC
C/O PAT LIDDELL
ADVANTAGE IDAHO
P.O. BOX 140273
BOISE, ID 83714

Priority Date: 4/3/1981

Source: VILLAGE LAKE
Source: BOISE RIVER

Tributary: BOISE RIVER
Tributary: SNAKE RIVER

BENEFICIAL USE

AESTHETIC STORAGE
DIVERSION TO STORAGE
IRRIGATION

From

01/01
01/01
04/01

To

to 12/31
to 12/31
to 11/01

Diversion Rate

3.210 cfs
0.440 cfs
3.210 cfs

Diversion Volume

78.0 af
49.5 af
127.5 af

LOCATION OF POINT(S) OF DIVERSION

VILLAGE LAKE L2 (SWSE) Sec 24 Twp 04N Rge 01E ADA County
BOISE RIVER L5 (SWSW) Sec 24 Twp 04N Rge 01E ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	23													X			X	
04N	01E	24											X	X					
													L 4	L 3					

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	
04N	01E	23													1.3			4.7	6.0
																		L 11	
04N	01E	24								3.2			14.4	35.5			7.5		60.6
													L 4	L 3			L 2		

Right Acre Limit: 11.0

POU Total Acres: 66.6

Amended

WATER RIGHT NO. 63-9718

Amended

As Modified by Transfer No. 79285

CONDITIONS OF APPROVAL

1. 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.
2. The diversion rate from the point of diversion located in Gov Lt 5 of the SWSW Section 24 T04N R 01E is limited to 0.32 cfs.
3. To mitigate for the depletion of water resulting from the continued consumptive use of water when the priority date of this right cannot be satisfied and to prevent injury to senior water right holders, the right holder shall cease using water as authorized by the following water right for the purpose and amount specified below. Moreover, the official record for the following right will be changed to show that use of water is not authorized because the right, or portion thereof, is being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (af)	Mitigation Acres
63-31832	from Irrigation	0.32	67.0	16.0

The total number of acres authorized for, and irrigation by right 63-31832 and associated rights 63-147B, 63-147D, 63-2360, 63-31198, 63-31833 will be reduced by 16 acres. The land that will no longer be irrigated under this right is located within the authorized irrigation boundary of the Boise Valley Irrigation Ditch Company.

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 shall be reduced by the same proportion as the reduction to the mitigation right.

4. The 12 ponds established by the storage of water under this right shall not exceed a total capacity of 78 acre-feet or a total surface area of 4.8 acres.
5. The right holder shall maintain measuring devices at the point of diversion and at the point of discharge 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. This right is limited to the irrigation of 11 acres within the authorized place of use in a single irrigation season.
7. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 2/16/2007.
8. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
9. This right does not grant any right-of-way or easement across the land of another.

Amended

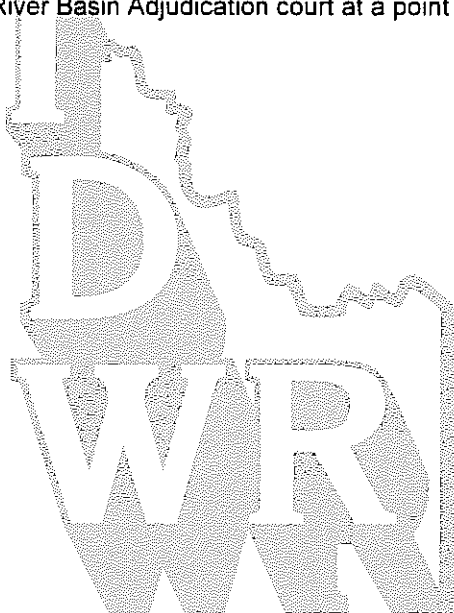
WATER RIGHT NO. 63-9718

Amended

As Modified by Transfer No. 79285

CONDITIONS OF APPROVAL

10. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



Amended**WATER RIGHT NO. 63-9751****Amended****As Modified by Transfer No. 79285**

In accordance with the approval of Transfer No. 79285, Water Right No. 63-9751 is now described as follows:

Right Holder: RIVERSIDE VILLAGE HOMEOWNERS ASSOCIATION INC
C/O PAT LIDDELL
ADVANTAGE IDAHO
P.O. BOX 140273
BOISE, ID 83714

Priority Date: 6/23/1981

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
AESTHETIC

From 01/01 to **To** 12/31

Diversion Rate
3.210 cfs
3.210 cfs

Diversion Volume
2324.0 af
2324.0 af

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER NENE Sec 25 Twp 04N Rge 01E ADA County

PLACE OF USE: AESTHETIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	23													X			X	
04N	01E	24											X	X					
													L 4	L 3					

CONDITIONS OF APPROVAL

1. 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.
2. The right holder shall maintain measuring devices at the point of diversion and at the point of discharge 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).
3. Return flow is discharged into the Boise River via Riverside Creek in the NESE, S23, T04N, R01E.

Amended**WATER RIGHT NO. 63-9751****Amended****As Modified by Transfer No. 79285****CONDITIONS OF APPROVAL**

4. To mitigate for the depletion of water resulting from the continued consumptive use of water when the priority date of this right cannot be satisfied and to prevent injury to senior water right holders, the right holder shall cease using water as authorized by the following water right for the purpose and amount specified below. Moreover, the official record for the following right will be changed to show that use of water is not authorized because the right, or portion thereof, is being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (af)	Mitigation Acres
63-31832	from Irrigation	0.32	67.0	16.0

The total number of acres authorized for, and irrigation by right 63-31832 and associated rights 63-147B, 63-147D, 63-2360, 63-31198, 63-31833 will be reduced by 16 acres. The land that will no longer be irrigated under this right is located within the authorized irrigation boundary of the Boise Valley Irrigation Ditch Company.

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 shall be reduced by the same proportion as the reduction to the mitigation right.

5. This right does not grant any right-of-way or easement across the land of another.
6. The point of diversion for this water right is unsurveyed accretion land. The quarter-quarter description has been protracted from the adjacent public land survey.
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Amended**WATER RIGHT NO. 63-31832****Amended****As Modified by Transfer No. 79285**

In accordance with the approval of Transfer No. 79285, Water Right No. 63-31832 is now described as follows:

Right Holder: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE, ID 83714

Priority Date: 6/1/1865

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
AESTHETIC	03/01	to 11/15	0.170 cfs	
AESTHETIC STORAGE	01/01	to 12/31		43.8 af
DIVERSION TO STORAGE	03/01	to 11/15	0.710 cfs	
IRRIGATION	03/01	to 11/15	48.800 cfs	10146.5 af
IRRIGATION FROM STORAGE	03/01	to 11/15		14.5 af
IRRIGATION STORAGE	01/01	to 12/31		14.5 af
MITIGATION	03/01	to 11/15	0.050 cfs	8.8 af
MITIGATION BY NON-USE	01/01	to 12/31	0.320 cfs	67.0 af
			49.510 cfs	10266.0 af

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER NESENE Sec 5 Twp 03N Rge 02E ADA County

PLACE OF USE: AESTHETIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	14					X												

PLACE OF USE: AESTHETIC STORAGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	14					X	X											
04N	01E	23				X									X				
						L 1									L 1				
04N	01E	24										X							
											L 4								

PLACE OF USE: IRRIGATION FROM STORAGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	14					17.2												17.2

Transfer No. 79285

Amended

WATER RIGHT NO. 63-31832

Amended

As Modified by Transfer No. 79285

PLACE OF USE: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	14					X												

CONDITIONS OF APPROVAL

1. The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
2. Diversion for irrigation and aesthetic under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; 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. This period of use condition does not apply to Irrigation Storage and Aesthetic Storage.
3. This right is limited to the irrigation of 2781.2 acres within the boundary of Boise Valley Irrigation Ditch Co.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
7. 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. 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.

Amended

WATER RIGHT NO. 63-31832

Amended

As Modified by Transfer No. 79285

CONDITIONS OF APPROVAL

9. 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 preceding 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 preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
10. The portion of Right 63-31832 used for conveyance losses is 5.94 cfs.
11. Transfer 66743 authorizes the diversion of water in the amount of 0.54 cfs and 14.5 af for uses associated with irrigation and a pond constructed in an earlier development phase of the City of Boise's Optimist Park just east of the pond for which this approval (Transfer 73768) proposes mitigation.
12. Transfer 73768 authorizes the diversion of water in the amount of 0.03 cfs and 6.0 af to be used for replacement of losses caused by evaporation from a 1.7 acre surface area pond authorized for aesthetic storage, wildlife storage, recreation storage, and municipal storage under right 63-32146.
13. Transfer 73769 authorizes the diversion of water in the amount of 0.04 cfs and 7.0 af to be used for replacement of losses caused by evaporation from a 2.0 acre surface area pond authorized for aesthetic storage under right 63-11791.
14. Transfer 75285 authorizes the diversion of water in the amount of 0.10 cfs and 16.25 af to be used for replacement of losses caused by evaporation from 4 ponds totaling a surface area of 4.5 acres authorized for aesthetic storage under right 63-33136.
15. This right mitigates for the depletion of water resulting from the diversion and use of water under Right 63-34031. To prevent injury to other water right holders, the right holder shall divert 0.05 cfs of this right but shall return that amount of water unused to the Boise River within the NENW, Section 17, T04N, R01E.

If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Right 63-34031. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the use of Right 63-34031 that is being mitigated shall be reduced by the same proportion as the reduction to this right.

16. This right mitigates for the depletion of water resulting from the diversion and use of water under Rights 63-9718 and 63-9751. To prevent injury to other water right holders, the right holder shall leave undiverted 0.32 cfs of this right at the point of diversion from the Boise River within the NESENE Section 5, T03N R02E.

If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the use of Rights 63-9718 and 63-9751 that are being mitigated shall be reduced by the same proportion as the reduction to this right.

Amended

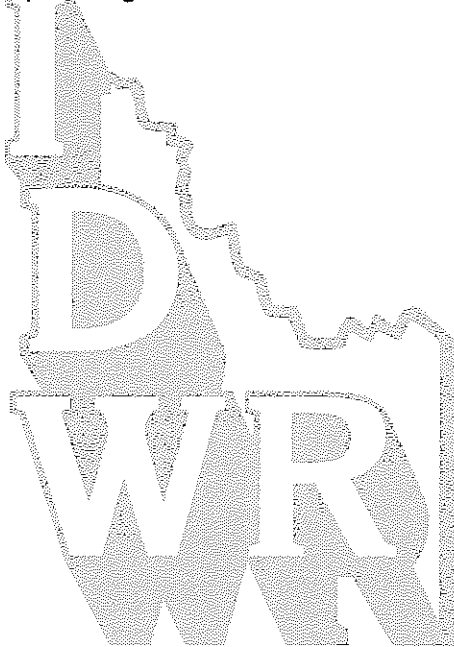
WATER RIGHT NO. 63-31832

Amended

As Modified by Transfer No. 79285

CONDITIONS OF APPROVAL

17. Rights 63-120G, 63-123C, 63-123D, 63-123E, 63-123F, 63-123G, 63-124Q, 63-125J, 63-126F, 63-164D, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-18700, 63-21729, 63-31937 are also diverted through the point of diversion described above.
18. Water is delivered through the Farmers Union and Boise Valley canals.
19. This right originated as all or part of right no. 15 in the Stewart Decree and the historic Boise River Water Masters records.





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

December 17, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RIVERSIDE VILLAGE HOMEOWNERS ASSOCIATION INC
C/O PAT LIDDELL
ADVANTAGE IDAHO
P.O. BOX 140273
BOISE ID 83714

Re: Transfer No: 79285
Water Right No(s): 63-9718, 63-9751, & 63-31832

AMENDED Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed **AMENDED** approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document. *This amended approval is issued to correct a minor typographical error on page 10, condition 16.*

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the amended 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,

 Rachel Neely for:

Nick Miller
Western Region Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC
C/O ROXANNE BROWN
300 E MALLARD DR STE 350
BOISE ID 83706

BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

REX R. BARRIE
WATERMASTER OF DISTRICT 63
10769 W STATE ST
PO BOX 767
STAR ID 83669

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing AMENDED TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 79285

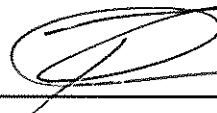
Water Right No(s): 63-9718, 63-9751, & 63-31832

**RIVERSIDE VILLAGE HOMEOWNERS ASSOCIATION INC
C/O PAT LIDDELL
ADVANTAGE IDAHO
P.O. BOX 140273
BOISE ID 83714**

**SPF WATER ENGINEERING LLC
C/O ROXANNE BROWN
300 E MALLARD DR STE 350
BOISE ID 83706**

**BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714**

**REX R. BARRIE
WATERMASTER OF DISTRICT 63
10769 W STATE ST
PO BOX 767
STAR ID 83669**



**Rachel Neely
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.