



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave West, Suite 500 • Twin Falls, Idaho 83301

Phone: (208) 736-3033 • FAX: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER

GARY SPACKMAN

October 19, 2015

Bootjack Limited Partnership
PO Box 856
Shoshone, ID 83352

John K. Simpson
1010 W. Jefferson St., Ste. 102
Boise, ID 83702

Re: Withdrawal of Protest against Transfer No. 80039 (Bootjack Limited Partnership)

Dear Parties:

The Department of Water Resources acknowledges receipt of your stipulation for withdrawal of protest ("stipulation") against the above referenced application. The parties have agreed to the protestant's withdrawal if approval of the transfer application is conditioned as provided in the stipulation.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. Since that time, in anticipation of similar approvals, the department has developed standard conditions of approval to address the "trust water" issue in a consistent manner. The enclosed draft transfer approval incorporates the department's standard conditions to address your stipulation.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the department within 14 days of the date of this letter with your concerns. The application does not have any remaining protests; therefore, if we do not hear from you, the department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the preliminary order approving the transfer is issued.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Allen Merritt, PE
Southern Region Manager

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 80039

D R A F T

This is to certify that: **BOOTJACK LIMITED PARTNERSHIP**
PO BOX 856
SHOSHONE, ID 83352

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>
37-10146	WR/DECREED	1/1/1950	0.040 cfs	N/A	N/A	N/A	GROUND WATER
37-20396	WR/DECREED	3/16/1982	0.080 cfs	25.8 af	N/A	N/A	GROUND WATER
37-8361	WR/LICENSE	6/16/1988	0.030 cfs	0.5 af	N/A	N/A	GROUND WATER

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>
37-10146	NO	NO	YES	YES	NO	NO
37-20396	NO	NO	YES	YES	NO	NO
37-8361	NO	NO	YES	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>
37-10146	37-10146	0.040 cfs	14.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
37-20396	37-20396	0.080 cfs	25.8 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
37-8361	37-8361	0.030 cfs	0.5 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.150 cfs	40.9 af	0.0	0.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this _____ day of _____, _____.

Southern Region Manager

Transfer No. 80039

WATER RIGHT NO. 37-8361

D R A F T

As Modified by Transfer No. 80039

In accordance with the approval of Transfer No. 80039, Water Right No. 37-8361 is now described as follows:

Right Holder: BOOTJACK LIMITED PARTNERSHIP
PO BOX 856
SHOSHONE, ID 83352

Priority Date: 6/16/1988

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	1/01	to 12/31	0.030 cfs	0.5 af
			0.030 cfs	0.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	SESWSE	Sec 2 Twp 05S Rge 17E LINCOLN County

PLACE OF USE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	17E	2																X	
05S	17E	11	X																
																			0

CONDITIONS OF APPROVAL

1. This right is for the use of trust water, and it is subject to review 20 years after its initial permit approval date of July 10, 1992, to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
2. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right or shall provide mitigation sufficient to offset the injury caused to the minimum stream flow water rights by the use of water pursuant to this right.
3. Rights 37-8361, 37-10146, and 37-20396 when combined shall not exceed a total diversion rate of 0.15 cfs and a total annual maximum diversion volume of 40.9 af.
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.

Transfer No. 80039

WATER RIGHT NO. 37-8361
As Modified by Transfer No. 80039

DRAFT

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 80039, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right does not grant any right-of-way or easement across the land of another.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
9. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
10. The right holder shall accomplish the change authorized by this transfer within one 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.

DRAFT

WATER RIGHT NO. 37-10146**As Modified by Transfer No. 80039**

In accordance with the approval of Transfer No. 80039, Water Right No. 37-10146 is now described as follows:

Right Holder: BOOTJACK LIMITED PARTNERSHIP
PO BOX 856
SHOSHONE, ID 83352

Priority Date: 1/1/1950

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	1/01	to 12/31	0.040 cfs	14.6 af
STOCKWATER	1/01	to 12/31	0.040 cfs	14.6 af
			0.040 cfs	14.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	SESWSE	Sec 2 Twp 05S Rge 17E LINCOLN County

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	17E	11	X																

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	17E	2																	
05S	17E	11	X																X

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
2. Rights 37-8361, 37-10146, and 37-20396 when combined shall not exceed a total diversion rate of 0.15 cfs and a total annual maximum diversion volume of 40.9 af.
3. 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.

Transfer No. 80039

D R A F T

WATER RIGHT NO. 37-10146

As Modified by Transfer No. 80039

CONDITIONS OF APPROVAL

4. Prior to the diversion and use of water under Transfer approval 80039, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right does not grant any right-of-way or easement across the land of another.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
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 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.

WATER RIGHT NO. 37-20396**As Modified by Transfer No. 80039**

In accordance with the approval of Transfer No. 80039, Water Right No. 37-20396 is now described as follows:

Right Holder: BOOTJACK LIMITED PARTNERSHIP
PO BOX 856
SHOSHONE, ID 83352

Priority Date: 3/16/1982

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	01/01	to 12/31	0.080 cfs	25.8 af
STOCKWATER	01/01	to 12/31	0.080 cfs	25.8 af
			0.080 cfs	25.8 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	NENENE	Sec 11 Twp 05S Rge 17E LINCOLN County
GROUND WATER	SESWSE	Sec 2 Twp 05S Rge 17E LINCOLN County

PLACE OF USE: COMMERCIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	17E	2																x	
05S	17E	11	x																

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	17E	2																x	
05S	17E	11	x																

CONDITIONS OF APPROVAL

1. Rights 37-8361, 37-10146, and 37-20396 when combined shall not exceed a total diversion rate of 0.15 cfs and a total annual maximum diversion volume of 40.9 af.
2. 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.

Transfer No. 80039

WATER RIGHT NO. 37-20396

As Modified by Transfer No. 80039

CONDITIONS OF APPROVAL

3. Prior to the diversion and use of water under Transfer approval 80039, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
5. This right does not grant any right-of-way or easement across the land of another.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
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 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.