STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78338

withdrawn by order issued 12-5-13

This is to certify that: HOOT NANNEY FARMS INC
C/O MICHAEL L DIXON
RT 1 BOX 8542 FLOATING FEATHER RD
EAGLE, ID 83616

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
63-2958	WR/DECREED	8/28/1953	2.400 cfs	558.0 af	124.0	240.0	GROUND WATER
63-31988	WR/DECREED	3/1/1976	1.160 cfs	522.0 af	124.0	240.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-2958	NO	NO	NO	YES	NO	NO
63-31988	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-2958	63-2958	2.400 cfs	558.0 af	124.0	240.0	N/A	N/A	N/A	N/A	N/A
63-31988	63-31988	1.160 cfs	522.0 af	124.0	240.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**2.400 cfs**	**1080.0 af**	**240.0**	**240.0**		**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 30 day of October, 2013.

JEFF PEPPERSACK Chief, Water Allocation Bureau

SUPPORT DATA
IN FILE # 63-2958

SCANNED
NOV 04 2013

WATER RIGHT NO. 63-2958

As Modified by Transfer No. 78338

In accordance with the approval of Transfer No. 78338, Water Right No. 63-2958 is now described as follows:

Right Holder: HOOT NANNEY FARMS INC
C/O MICHAEL L DIXON
RT 1 BOX 8542 FLOATING FEATHER RD
EAGLE, ID 83616

Priority Date: 8/28/1953

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	03/01	to 11/15	2.400 cfs	558.0 af
			2.400 cfs	558.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	NWSW	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	(I)
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	(R)

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	01W	3						39.0	40.0			40.0							119.0
								L 4											
04N	01W	4	41.0			40.0									40.0				121.0
			L 1																

Right Acre Limit: 124.0
POU Total Acres: 240.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 124 acres within the place of use described above in a single irrigation season.
2. Rights 63-2958 and 63-31988 when combined shall not exceed a total diversion rate of 2.40 cfs, a total annual maximum diversion volume of 1080.0 af at the field headgate, and the irrigation of 240 acres.
3. Rights 63-2958, 63-31988 and 63-32010 when combined shall not exceed a total annual maximum diversion volume of 1080.0 af at the field headgate, and the irrigation of 240 acres.

SCANNED
NOV 0 4 2013

WATER RIGHT NO. 63-2958

As Modified by Transfer No. 78338

CONDITIONS OF APPROVAL

4. 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.

5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

6. Ground water diverted from the new well authorized under Transfer 78338 located in the NWSW, Section 3, Township 4N, Range 1 West, shall be limited to water bearing formations no deeper than 200 feet below ground surface.

7. Ground water diverted from the points of diversion in Govt. Lot 4 (NWNW), Section 3, Township 4 North, Range 1 West, is injected into Little Gulch Creek and rediverted from Little Gulch Creek.

8. Prior to the diversion and use of water under Transfer 78388, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized points of diversion and at the authorized point of rediversion, in accordance with Department specifications.

9. The right holder shall record the quantity of water diverted from each point of diversion and from the point of rediversion and annually report the totals, in accordance with Department instructions.

10. This right does not grant any right-of-way or easement across the land of another.

11. The diversion and use of water described in Transfer 78338 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

14. 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.

15. Right 63-31988 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

16. The following rights are diverted through points of diversion described above: 63-2958, 63-31988 and 63-33721.

SCANNED
NOV 04 2013

WATER RIGHT NO. 63-31988

As Modified by Transfer No. 78338

In accordance with the approval of Transfer No. 78338, Water Right No. 63-31988 is now described as follows:

Right Holder: HOOT NANNEY FARMS INC
C/O MICHAEL L DIXON
RT 1 BOX 8542 FLOATING FEATHER RD
EAGLE, ID 83616

Priority Date: 3/1/1976

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	03/01	to	11/15	1.160 cfs	522.0 af
				1.160 cfs	522.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	NWSW	Sec 3	Twp 04N Rge 01W ADA County	
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	(I)
GROUND WATER	L4 (NWNW)	Sec 3	Twp 04N Rge 01W ADA County	(R)

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	01W	3						39.0	40.0			40.0							119.0
								L 4											
04N	01W	4	41.0			40.0									40.0				121.0
			L 1																

Right Acre Limit: 124.0
POU Total Acres: 240.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 124 acres within the place of use described above in a single irrigation season.
2. Rights 63-2958 and 63-31988 when combined shall not exceed a total diversion rate of 2.40 cfs, a total annual maximum diversion volume of 1080.0 af at the field headgate, and the irrigation of 240 acres.
3. Rights 63-2958, 63-31988 and 63-32010 when combined shall not exceed a total annual maximum diversion volume of 1080.0 af at the field headgate, and the irrigation of 240 acres.

SCANNED
NOV 04 2013

WATER RIGHT NO. 63-31988

As Modified by Transfer No. 78338

CONDITIONS OF APPROVAL

4. 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.

5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

6. Ground water diverted from the new well authorized under Transfer 78338 located in the NWSW, Section 3, Township 4N, Range 1 West, shall be limited to water bearing formations no deeper than 200 feet below ground surface.

7. Ground water diverted from the points of diversion in Govt. Lot 4 (NWNW), Section 3, Township 4 North, Range 1 West, is injected into Little Gulch Creek and rediverted from Little Gulch Creek.

8. Prior to the diversion and use of water under Transfer 78388, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized points of diversion and at the authorized point of rediversion, in accordance with Department specifications.

9. The right holder shall record the quantity of water diverted from each point of diversion and from the point of rediversion and annually report the totals, in accordance with Department instructions.

10. This right does not grant any right-of-way or easement across the land of another.

11. The diversion and use of water described in Transfer 78338 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

14. 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.

15. This right is based upon an enlargement of Right No. 63-2958 pursuant to Section 42-1426, Idaho Code.

16. The following rights are diverted through points of diversion described above: 63-2958, 63-31988 and 63-33721.

SCANNED
NOV 0 4 2013

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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 4, 2013

HOOT NANNEY FARMS INC
C/O MICHAEL L DIXON
RT 1 BOX 8542 FLOATING FEATHER RD
EAGLE ID 83616

Re: Transfer No: 78338
Water Right No(s).: 63-2958, 63-31988

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

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 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)287-4800.

Sincerely,

Jean Hersley

for Jeff Peppersack
Chief, Water Allocation Bureau

Enclosure

CC:

ERO Resource Corp
Sawtooth Law Offices PLLC
Moffatt Thomas Barrett Rick & Fields
Honsinger Law PLLC
Sonny Hornbaker

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 78338
Water Right No(s).: 63-2958, 63-31988

HOOT NANNEY FARMS INC
C/O MICHAEL L DIXON
RT 1 BOX 8542 FLOATING FEATHER RD
EAGLE ID 83616

ERO RESOURCES CORP
C/O DAVID SHAW
3314 GRACE ST
BOISE ID 83703

S BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
PO BOX 7985
BOISE ID 83702

NORMAN SEMANKO
MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE ID 83701

CHARLES HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

Jean Hersley

Jean Hersley
Technical Records Specialist II

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.