

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 75286

This is to certify that: NEW UNION DITCH CO LTD
 PO BOX 31
 EAGLE ID 83616
 (208)859-9360

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 Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-146	WR/Decreed	06/01/1865	13.76 cfs	N/A	N/A	663.8	BOISE RIVER

Purpose of Transfer (Changes Proposed)

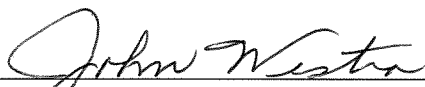
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-146	NO	NO	YES	NO	NO	YES

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>
63-146	63-146	13.76 cfs	N/A	N/A	655.8		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		13.76 cfs	N/A	N/A	655.8		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 19th day of June, 20 12


 John Westra, Western Regional Manager

WATER RIGHT NO. 63-146
As Modified by Transfer No. 75286

In accordance with the approval of Transfer No. 75286, Water Right No. 63-146 is now described as follows.

Right Holder: NEW UNION DITCH CO LTD
 PO BOX 31
 EAGLE ID 83616

Priority Date: June 01, 1865

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DIVERSION TO STORAGE	03/01	to 11/15	0.64 CFS	
AESTHETIC STORAGE	01/01	to 12/31		119.2 AF
IRRIGATION	03/01	to 11/15	13.12 CFS	
			13.76 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L1 (NESE) Sec. 23 Twp 04N Rge 01E ADA County

PLACE OF USE: AESTHETIC 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	
04N 01E 14											X						
04N 01E 15																X	
04N 01E 16			X	X	X											L 1	
04N 01E 23			L 2	L 1	X	X		X									
					L 3	L 4		L 6									

CONDITIONS OF APPROVAL

1. The boundary encompassing the place of use for irrigation under 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 for irrigation is attached to this approval document to illustrate the place of use described by the digital boundary.
2. This right is limited to the irrigation of 655.8 acres within the boundary of the New Union Ditch Company Ltd. in a single irrigation season.
3. The right holder shall accomplish the change authorized by this Transfer within one (1) year of the date of the approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfers.

WATER RIGHT NO. 63-146
As Modified by Transfer No. 75286

CONDITIONS OF APPROVAL

5. 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.
6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
7. 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.
8. 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.
9. Transfer 70266 authorizes the diversion rate in the amount of 0.03 cfs and 4.6 af to be used for replacement of losses caused by evaporation from one pond associated with Right 63-12598.
10. Transfer 73632 authorizes the diversion of water in the amount of 0.36 cfs and 66.4 af to be used for replacement of losses caused by evaporation from 10 ponds associated with Right 63-31934.
11. Transfer 73632 authorizes the diversion of water in the amount of 0.09 cfs and 20.2 af to be used for replacement of losses caused by evaporation from one pond and evapotranspiration from the irrigation of 4 acres associated with Right 63-32143.
12. This approval (Transfer 75286) authorizes the diversion of water in the amount of 0.16 cfs and 28.0 af to be used for replacement of losses caused by evaporation from three (3) ponds associated with Right 63-33631.
13. Rights 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B, 63-263, 63-286, 63-288B, 63-28977, 63-31778, 63-31806, and 63-31937 are also diverted through the point of diversion described above.
14. This right originated as all or part of right no. 14 in the Stewart Decree and the historic Boise River Water Masters records.

WATER RIGHT NO. 63-146
As Modified by Transfer No. 75286

CONDITIONS OF APPROVAL

15. Diversion for irrigation 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 Reservoir 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 water right 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.

Dated this 19th day of June, 20 12



John Westra, Western Regional Manager

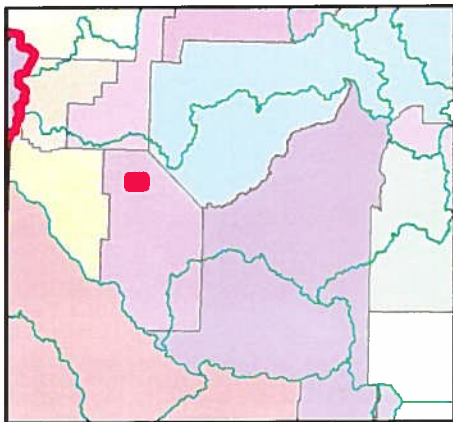


New Union Ditch Co Ltd

Water Rights: 63-146

Irrigation Service Area Boundary
GIS Place of Use Illustration

-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Ada County
IDWR Basin 63

Prepared by Curtis, Sharla
On June 18, 2012
2009 Aerial Photography





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 18, 2012

NEW UNION DITCH CO LTD
PO BOX 31
EAGLE ID 83616

RE: Transfer No.: 75286
Water Right No(s): 63-146

Transfer Approval Notice

Dear Water Right Holder:

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 homepage 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,

A handwritten signature in black ink, appearing to read "John Westra". The signature is written in a cursive style. Below the main signature, the word "for" is written in a smaller, simpler font.

John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 75286

WATER RIGHTS NO. 63-146

**NEW UNION DITCH CO LTD
PO BOX 31
EAGLE ID 83616**

A handwritten signature in cursive script, appearing to read "Mandi Pearson", is written over a horizontal line.

**Mandi Pearson
Office 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.

Proof of Publication
The Post Register

Rec'd 4/30/12
MP

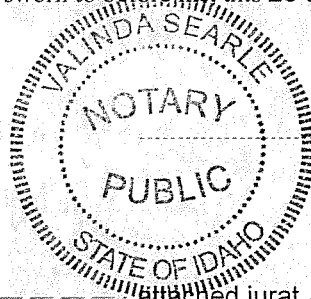
State of Idaho
Bonneville County:

I, ~~Hilary Witt~~ or Staci Dockery, first being duly sworn, depose and say: That I am the ~~Classifieds Manager~~ or Legal Notice Representative of the Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published Tuesday through Sunday at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880, and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November 1931, and each of said newspapers have been published continuously and uninterrupted, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterrupted from the date of such consolidations up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register under this ad number: **463755**, for **2** consecutive (days) weeks, between **04/19/2012** and **04/26/2012**,

and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 26 day of April 2012



Notary Public

My Commission expires: 1/10/2015

11-10-2017

Attached jurat

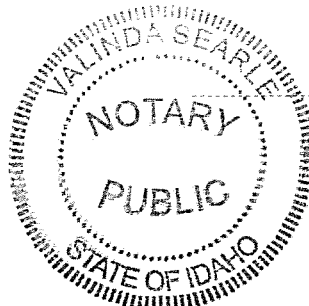
STATE OF IDAHO

ss.

COUNTY OF BONNEVILLE

Subscribed and sworn to before me, this 26 day of April 2012, before me, the undersigned, a Notary public for said state, personally appeared ~~Hilary Witt~~ or Staci Dockery, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for The Post Company

Residing at: Idaho Falls

My Commission expires: 1/10/2015

11-10-2017

OK MP
5/12/12

PROPOSED CHANGE OF WATER RIGHTS

Pleasant Valley Irrigation Co. c/o Terry Copple, Esq., PO Box 1583, Boise, ID 83701, filed **Application No. 76824** to transfer five water rights with 1907 to 1912 priority dates from Tenmile Creek and Blacks Creek totaling 26 cfs and 7900 af of storage. The purpose of the transfer is to expand the service area to include Tyson Food property located near South Cole and Kuna-Mora Roads. The transfer affects 8.62 cfs/2010.8 af which reflect delivery of Tyson shares.

New Union Ditch Company Ltd. of PO Box 31, Eagle ID 83616 filed **Application No. 75286** to transfer a water right with an 1865 priority date from the Boise River totaling 13.76 cfs. The purpose of the transfer is to change the nature of use for an 8 acre portion of the right to mitigate consumptive use for 3 ponds in Lonesome Dove Subdivision (Application 63-33631) located along Riverside Dr southeast of Hwy 44 (State St) about 1 mile from Eagle. The unchanged portion of the right will remain within the ditch company service area.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 5/7/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Published: April 19 and 26, 2012 (463755)

Idaho Statesman

The Newspaper of the Treasure Valley
IDAHOSTATESMAN.COM

PO Box 40, Boise, ID 83707-0040

REC'D 4/27/12
JL

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000595642	LEGAL NOTICE	Hansen	\$444.53	3	172

Attention: Steve Lester

IDAHO DEPT WATER RESOURCE

2735 AIRPORT WAY

BOISE

ID

83705

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-33616

LAWRENCE &/or KAY HANSEN

1440 E. MARY LN
MERIDIAN ID 83642
Point of Diversion: 2 points in NWSE S9 T02N R01W
ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.18 CFS, COMMERCIAL 01/01 to 12/31 0.2 CFS, DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.42 CFS
Date Filed: 1/10/2012
Place Of Use: IRRIGATION, COMMERCIAL, DOMESTIC
T02N R01W S9 NWSE
Total Acres: 9
Water bearing zone to be appropriated is from 150 to 300 feet.
Commercial use is for a winery.

63-33620

MERIDIAN JOINT SCHOOL DISTRICT #2

OPERATIONS & MAINTENANCE
1303 E CENTRAL DR
MERIDIAN ID 83642
Point of Diversion: NESE S6 T03N R01E ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.36 CFS
Total Diversion: 0.36 CFS
Date Filed: 2/17/2012
Place Of Use: IRRIGATION
T03N R01E S6 NESE NWSE
Total Acres: 6
Water bearing zone to be appropriated is from 200 to 350 feet for Chief Joseph School.

63-33621

MERIDIAN JOINT SCHOOL DISTRICT #2

OPERATIONS & MAINTENANCE
1303 E CENTRAL DR
MERIDIAN ID 83642
Point of Diversion: NWSE S9 T03N R01E ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1.38 CFS
Total Diversion: 1.38 CFS
Date Filed: 2/17/2012
Place Of Use: IRRIGATION
T03N R01E S9 NWSE SWSE
Total Acres: 24
Water bearing zone to be appropriated is from 200 to 350 feet for Lewis & Clark School.

63-33622

MERIDIAN JOINT SCHOOL DISTRICT #2

OPERATIONS & MAINTENANCE
1303 E CENTRAL DR
MERIDIAN ID 83642
Point of Diversion: SENE S12 T03N R01W ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.57 CFS
Total Diversion: 0.57 CFS
Date Filed: 2/17/2012
Place Of Use: IRRIGATION
T03N R01W S12 SENE
Total Acres: 9.5
Water bearing zone to be appropriated is from 200 to 350 feet for Meridian Elementary School.

63-33623

MERIDIAN JOINT SCHOOL DISTRICT #2

OPERATIONS & MAINTENANCE
1303 E CENTRAL DR
MERIDIAN ID 83642
Point of Diversion: SENE S14 T03N R01W ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.42 CFS
Total Diversion: 0.42 CFS
Date Filed: 2/17/2012
Place Of Use: IRRIGATION
T03N R01W S14 SENE
Total Acres: 7
Water bearing zone to be appropriated is from 200 to 350 feet for Peregrine School.

63-33624

MERIDIAN JOINT SCHOOL DISTRICT #2

OPERATIONS & MAINTENANCE
1303 E CENTRAL DR
MERIDIAN ID 83642
Point of Diversion: SENE S16 T03N R01E ADA County Source: GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.18 CFS
Total Diversion: 0.18 CFS
Date Filed: 2/17/2012
Place Of Use: IRRIGATION
T03N R01E S16 SENE
Total Acres: 3
Water bearing zone to be appropriated is from 200 to 350 feet for Eliza Hart Spalding School.

63-33631

TAUNTON PROPERTIES

724 S LONE BROOK WAY
EAGLE ID 83616
Point of Diversion: 2 points in L1 (SENE) & 1 point in L1 (NESE) S16 T04N R01E ADA County Source: GROUND WATER Tributary BOISE RIVER
Use: AESTHETIC STORAGE 01/01 to 12/31 140 AF
Total Diversion: 140 AF
Date Filed: 3/16/2012
Place Of Use: AESTHETIC STORAGE
T04N R01E S16 L2 (SWNE) L1 (SENE) L1 (NESE)
Water bearing zone to be appropriated is from 1 to 25 feet for shallow ground water ponds.
Mitigation is proposed by Application 75286 (New Union Ditch Company).

PROPOSED CHANGE OF WATER RIGHTS

Pleasant Valley Irrigation Co. c/o Terry Copple, Esq., PO Box 1563, Boise, ID 83701, filed Application No. 75624 to transfer fee water rights with 1907 to 1912 priority dates from Tenuille Creek and Blacks Creek totaling 26 cfs and 7900 of storage. The purpose of the transfer is to expand the service area to include Tyson Food property located near South Cole and Kuna-Mora Roads. The transfer affects 8.62 cfs/2010.8 afw which reflect delivery of Tyson shares.

New Union Ditch Company Ltd. of PO Box 31, Eagle ID 83616 filed Application No. 75286 to transfer a water right with an 1865 priority date from the Boise River totaling 13.76 cfs. The purpose of the transfer is to change the nature of use for an 8 acre portion of the right to mitigate consumptive use for 3 ponds in Lonesome Dove Subdivision (Application 63-33631) located along Riverside Dr southeast of Hwy 44 (State St) about 1 mile from Eagle. The unchanged portion of the right will remain within the ditch company service area.

Permits will be subject to all other water rights. For additional information concerning the property location, contact Western Region office at (208) 234-2190 or for a full description of the rights & proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WrFiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$25.00 for each application on or before 5/7/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Pub. April 19/26, 2012

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 04/19/2012

Ending issue of: 04/26/2012

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

SS

COUNTY OF ADA)

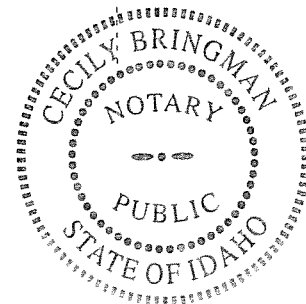
On this 26 day of April in the year of 2012 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Cecily Bringman

Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15



0000595642-01

TRIBUNE PUBLISHING COMPANY, INC

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date:	<u>04/26/2012</u>	INVOICE NO.	<u>59169</u>
Account No.	<u>964760</u>		
Description	<u>59169 PROPOSED</u>		
Times	<u>2</u>	Lines	<u>70</u>
		Tab. lines	
		\$	<u>99.75</u>

**LEGAL ADVERTISING
INVOICE**

Sold To: DEPT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE ID 83705

PO#

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

59169

**PROPOSED CHANGE OF
WATER RIGHTS**

Pleasant Valley Irrigation Co.
c/o Terry Copple, Esq., PO
Box 1583, Boise, ID 83701,
filed Application No. 76824
to transfer five water rights
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dates from Tenmile Creek
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26 cfs and 7900 af of storage.
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New Union Ditch Company
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75286 to transfer a water
right with an 1865 priority
date from the Boise River to-
taling 13.76 cfs. The purpose
of the transfer is to change
the nature of use for an 8
acre portion of the right to
mitigate consumptive use for
3 ponds in Lonesome Dove
Subdivision (Application 63-
33631) located along River-
side Dr southeast of Hwy 44
(State St) about 1 mile from
Eagle. The unchanged por-
tion of the right will remain
within the ditch company
service area.

For additional information
concerning the property lo-
cation, contact Western Re-
gion office at (208) 334-2190;
or for a full description of the
rights &/or proposed transfer,
please see www.idwr.idaho.gov/apps/ExtSearch/WRFil-ing.asp. Protests may be sub-
mitted based on the criteria
of Sec 42-222, Idaho Code.
Any protest against the ap-
proval of this application(s)
must be filed with the Direc-
tor, Dept. of Water Resourc-
es, Western Region, 2735
Airport Way, Boise, ID 83705
together with a protest fee of
\$25.00 for each application
on or before 5/7/2012. The
protestant must also send a
copy of the protest to the ap-
plicant.

GARY SPACKMAN,
Interim Director

AFFIDAVIT OF PUBLICATION

Mandy Charbonneau, being duly sworn, deposes and
says, I am the Legal Clerk of the Tribune
Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho
and under and by virtue of the laws of the State of Washington,
publishers of the Lewiston Tribune, a news-
paper of general circulation published at Lewiston, Nez Perce
County, Idaho; That the said Lewiston Tribune is
an established newspaper and has been published regularly
and issued regularly at least once a day for more than 105
consecutive years next immediately preceding the first
publication of this notice, and has been so published
uninterrupted for said period; that the 59169 PROPOSED
attached hereto and which is made a part of this affidavit
was published in the said Lewiston Tribune,

2 time(s). Publication being on
04/19, or once a Week
for 2 consecutive Week,
the first publication thereof being on the 04/19/2012,
and the last publication thereof being on the 04/26/2012,
and said 59169 PROPOSED was so published in the
regular and entire issue of said newspaper and was not in a
supplement thereof and was so published in every issue and
number of the said paper, during the period and times of
publication as set forth above.

Mandy Charbonneau

State of Idaho
S.S.

County of Nez Perce

On this 27th day of April in the year
of 2012, before me, a Notary Public, personally
appeared Mandy Charbonneau, known or identified
to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn,
declared that the statements therein are true, and
acknowledged to me that he executed the same.

Rachel Lambert
Notary Public in and for the State of Idaho,
residing at Moscow, therein
Commission Expires 4/30/15

RECEIVED

MAY 03 2012

WATER RESOURCES
WESTERN REGION

Affidavit of Publication

STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

I, Ruby Aufderheide, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twins Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated 19th day of April, 2012 and ending with the issue dated 26th day of April, 2012

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issued thereof Thursday is announced as the day on which said legal will be published.

Ruby Aufderheide
Ruby Aufderheide, Legal Clerk

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 26th day of April, 2012, before me,

a Notary Public, personally appeared Ruby Aufderheide,
known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly
herein are true, and acknowledged to me that he executed the same.

PROPOSED CHANGE OF WATER RIGHTS

Pleasant Valley Irrigation Co. c/o Terry Copple, Esq., PO Box 1583, Boise, ID 83701, filed Application No. 76824 to transfer five water rights with 1907 to 1912 priority dates from Tenmile Creek and Blacks Creek totaling 26 cfs and 7900 af of storage. The purpose of the transfer is to expand the service area to include Tyson Food property located near South Cole and Kuna-Mora Roads. The transfer affects 8.62 cfs/2010.8 afa which reflect delivery of Tyson shares.

New Union Ditch Company Ltd. of PO Box 31, Eagle ID 83616 filed Application No. 75286 to transfer a water right with an 1865 priority date from the Boise River totaling 13.76 cfs. The purpose of the transfer is to change the nature of use for an 8 acre portion of the right to mitigate consumptive use for 3 ponds in Lonesome Dove Subdivision (Application 63-33631) located along Riverside Dr southeast of Hwy 44 (State St) about 1 mile from Eagle. The unchanged portion of the right will remain within the ditch company service area.

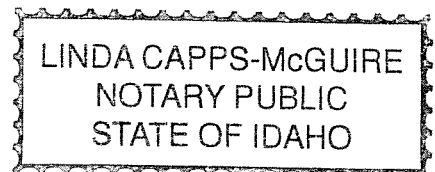
For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 5/7/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
PUBLISH: 4/19/2012 and 4/26/2012

Linda Copple McGuire
Notary Public for Idaho
residing at Twin Falls, Idaho.

My commission expires:

5-19-15



State of Idaho

Department Of Water Resources

RECOMMENDATION FORM -- WATER DISTRICT NO. 63

RECEIVED

RECEIVED

APR 16 2012

WATER RESOURCES
WESTERN REGION

Application # **Transfer # 75286**

Applicant Name **New Union Ditch Co.**

e. Fossil

Watermaster Recommendation:

- a) ☒ I do not oppose approval of this application(s).
- b) ☐ I do not oppose approval of this application(s) if it is conditioned as follows:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comments:

Dated this 16 day of April , 2012

Rex R. Barrie

Watermaster Signature

Printed Name

MEMORANDUM

TO: Application for Permit No. 63-33631 & Transfer No. 75286 Files

FROM: Angie Grimm

DATE: April 9, 2012

RE: Evaluation of Sufficiency of Information Submitted

Application for Permit 63-33631 was filed by Taunton Properties for the storage volume of three aesthetic ponds within Lonesome Dove Subdivision. The proposed source for the unlined ponds is shallow ground water tributary to the Boise River above Star. New Union Ditch Company Ltd (Ditch Co.) filed accompanying Transfer No. 75286 to change water right 63-146 to mitigate for the consumptive use associated with the ponds. The transfer proposes a nature of use change for 8.0 acres of irrigation (0.16 cfs and/or 28.0 af) allowing for a "1:1 pond swap".

Lonesome Dove Subdivision is located along Riverside Drive southeast of the intersection of Riverside Dr and Hwy 44 (State Street) approximately one mile southeast of Eagle. The Ditch Co.'s current service area is generally located north/northeast of the Boise River from 1/4 mile southeast of Eagle south/southeast approximately 2.25 miles along Hwy 44 (State Street). The P/D for right 63-146 is the diversion site shared with New Dry Creek Ditch Co located on the Boise River approximately one mile downstream of the Glenwood Bridge. The irrigation service area and P/D for the Ditch Co. will not change as a result of this transfer.

Summary of Information Submitted for Transfer 75286

Authority to File: The applicant is the current owner on record. The applicant has authority to change its own right. The applicant is authorized to do business in the State of Idaho as they are registered with Idaho Secretary of State under Organizational ID C110208.

Water Right Validity: The right is presumed to be valid, because the partial decree was issued on 9/21/2007 within the past five year period.

Injury to Other Water Rights: No injury has occurred nor should occur as there will be no change to the current amount of water being diverted or the method used to divert the water to the affected land. Water historically diverted for irrigation will be diverted to the ponds to mitigate for evaporative losses. There will be no reduction in quantity of water available for other water rights. The water right holder will not be put to any unreasonable effort or expense to divert the water since diversion practices will remain unchanged except the water previously applied to a crop will now be placed in ponds at the same location. Water quality may be enhanced by taking out cultivated acreage and replacing it with the ponds and nearby wetland area.

Enlargement of Use: The applicant does not propose to enlarge the use. There will be no increase in the diversion rate, diversion volume, or extent of beneficial use as a result of the transfer. The number of acres authorized for irrigation within the Ditch Co.'s boundary will be reduced by 8.0 acres to allow for the nature of use changes proposed for mitigation of permit application 63-33631. Historically, the 8.0 acres was cultivated with a highly consumptive crop per applicant remarks. This allows for a "1:1 pond swap". The period of use proposed for the

Aesthetic Storage nature of use change is year round, rather than the irrigation season, which is consistent with previous transfer approvals for similar nature of use changes. Considering a de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season and the diversion to storage use shall be limited to the irrigation season, no enlargement should occur should a year round period of use be approved for the Aesthetic Storage use. The total number of acres authorized for irrigation within the Ditch Co. service area will reduced by 8.0 acres to provide for the nature of use change, therefore no enlargement shall occur.

Local Public Interest: Transfer proposes mitigation for existing aesthetic ponds. Changing the nature of use for 8.0 acres of irrigation is minimal and will not significantly impact the local agricultural base. Reduction in irrigation to mitigate existing ponds serves the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use(s) consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Summary of Information Submitted for Application 63-33631

The application proposes 140.0 AF of aesthetic storage for the capacity of three ponds with a total surface area of roughly 6.0 acres. The application indicates the excavated ponds fill with shallow ground water, which is tributary to the Boise River. This use is subject to Watermaster control due to the use of shallow ground water tributary to the Boise River. As such, a request for comments on this proposal will be sent to the Watermaster of Basin 63.

The application proposes aesthetic storage for a year round period of use. The transfer application proposes mitigation for this use through diversion of Boise River water during the irrigation season. A de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season.

Application 63-33631 was filed by the current land owner to replace voided application 63-32621 filed by previous land owner Lonesome Dove LLC.

Discussion

Transfer application 75286 proposes to change the nature of use for an 8.0 acre portion of irrigation use for mitigation of the consumptive use associated with the ponds proposed in Application for Permit 63-33631. Despite the ponds described in application 63-33631 only covering roughly 6.0 acres, the transfer applicant wishes to retire an 8.0 acre portion of right 63-146 to mitigate these ponds. This change is proposed as a "1:1 pond swap". Shares of the Ditch Co. water will be placed in the un-lined ponds during the irrigation season to mitigate the year round consumptive use of the ponds. The transfer will affect the water right record of 63-146, which is the most current record for this right. The partial decree was issued and the results were migrated prior to transfer processing and data entry.

The P/D for right 63-146 is also the P/D for the following rights; 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B, 63-263, 63-286, 63-288B, 63-28977, 63-31778, 63-31806, and 63-

31937. These rights are owned by different entities (New Dry Creek Ditch Co and Drainage District No. 2) than the transfer applicant and are used within a different service area and/or for a different use than the right proposed for transfer. The place of use for right 63-146 is a service area boundary for which there are no other rights. There are no other overlapping rights affected by this transfer.

The ponds proposed for mitigation in the transfer are to be used for aesthetic storage totaling 140.0 af per the permit application. The consumptive use associated with the 140.0 af capacity ponds is 21.0 af (6.0 ac surface area x 3.5 af/ac standard for the area). The purpose of the transfer application is to mitigate for the consumptive use for these ponds. The transfer proposes to change the nature of use of 28.0 af to mitigate the ponds. This more than adequately describes the volume for mitigation of the ponds.

Previous transfer approvals (no. 70266 and no. 73632) changed the nature of use of portions of right 63-146 from irrigation to groundwater recharge for mitigation of other ponds and irrigation directly from the ponds within other subdivisions. The transfer application has been drafted to change the terminology from groundwater recharge to aesthetic storage and diversion to storage to comply with current Department terminology for this type of mitigation. The non-irrigation related term of aesthetic storage is used to describe the consumptive use for both pond evaporation and irrigation in this case. Use of irrigation storage term would imply irrigation associated with the Ditch Co right rather than the permit (63-32143) it's mitigating. The applicant was not charged a larger fee to update terminology from previous transfer approvals. The fee collected for the amount of water being changed under the current proposal (Transfer 75286) only.

Right 63-146 is a Boise River source right with a priority date of 06/01/1865. The priority date along with special conditions regarding delivery of this right ensures this right is almost always deliverable and thus a good candidate for use as mitigation.

An amended application to clarify the intended nature of use was requested in my letter of October 5, 2011. The amended application was received November 16, 2011.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the applications can be approved as reflected by the draft approvals.