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DEPT. OF WATER RESOURCES
SOUTHERN REGION

March 22, 2012

Indian Creek Ranch Owners Assn Inc
PO Box 3411
Hailey ID 83333-3411

Allen Merritt
Regional Manager
Idaho Department of Water Resource
1341 Fillmore St Ste 200
Twin Falls ID 83301-3380

RE: *Petition to remove measuring device and lockable headgate requirement from Permit 37-22624*

Dear Allen:

Indian Creek Ranch Owners Association ("ICROA"), the holder of Permit 37-22624, is filing this petition requesting the Department of Water Resources ("Department") remove the measuring device and lockable headgate requirement as a condition of the permit.

The condition at issue reads as follows: Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works. Additionally the right holder shall install and maintain a measuring device to measure the return flow from the project as it discharges back to Indian Creek.

The permit states Indian Creek is a tributary of the Big Wood River. However, historically it has been recognized as a separate stream and is listed in the Basin 37, Part 3 General Provisions as a source of water for three water rights held by ICROA to be administered separately from all other water in Basin 37. In fact water from Indian Creek never reaches the Big Wood River. All the water flowing out the bottom of the Indian Creek drainage is captured by Hiawatha Canal which uses it to supplement irrigation water during the irrigation season but then during the non-irrigation season is faced with the problem of having to manage this water to prevent property damage.

Though another condition of the permit states it is subject to regulation by the Watermaster of WD37, Indian Creek has never been regulated by the Watermaster. The two principle users of surface water in the Indian Creek Drainage are the City of Hailey and ICROA. Use of Indian Creek and Indian Creek Springs by these two parties is guided by a document titled Agreement signed in September 1983 and further clarified by the Amended Settlement Agreement Term Sheet dated November 30, 2011.

Number 3 in the conditions of approval states the use of water under this right shall be non-consumptive. In fact, the distance water must travel from the point of diversion to

where water returns to Indian Creek is only 100 yards. Due to the age of the delivery system which was constructed several years ago, fine sediment and silt has likely sealed the bottom of the two small ponds and ditch virtually eliminating any seepage loss. Considering these two factors, the amount of transmission loss and evaporation between the point of diversion and where water returns to creek is likely so minimal it would be less than the accepted standard percentage of error for the measuring devices.

By virtue of its priority date, location and other conditions of approval when ICROA is diverting water under this permit no existing surface water rights in the Indian Creek Drainage could possibly be injured. The point of diversion for this permit is at the very bottom of the Indian Creek Drainage and is the last diversion prior to Indian Creek discharging into Hiawatha Canal. Because of its junior status, ICROA cannot make call for delivery of water to fill this right and instead is limited to what water is available at the point of diversion.

Based on the factors enumerated above, ICROA contends the requirement to install and maintain a lockable headgate and two measuring devices is an unnecessary financial burden, serves no useful purpose beyond providing a measurement for the licensing exam, which can be obtained without a permanent measuring device, and therefore is without merit and requests the Department consider removing the condition in question. If in the future the circumstances change and regulation on Indian Creek becomes a necessity, ICROA would willingly install the measuring devices and lockable headgate.

Respectfully

A handwritten signature in black ink, appearing to read "Ben Hoff", with a stylized, cursive script.

Ben Hoff

Association President