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DATE: December 23, 2011

TO: Idaho Department of Water Resources - Boise 287-6700
Idaho Department of Water Resources, Eastern Region (208) 525-7177

FROM: Candice M. McHugh

RE: For filing in Transfer No. 77048 / Attached *PETITION FOR RECONSIDERATION*3 Pages (including this one) are being transmitted. If you do not receive all of the pages, please contact our office immediately at the above telephone number. An original:

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BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

In Re: Transfer #77048

PETITION FOR RECONSIDERATION

COMES NOW Whiskey Creek Ranch and files this Petition for Reconsideration regarding Transfer No. 77048 for the following reasons:

**I.
WATER RIGHT NOS. 13-697A AND 13-698**

- (A) Condition of Approval #5 for Water Right nos. 13-697A and 13-698 contains the following condition:
- a. If Rights 13-697A and 13-698, or a portion thereof, are not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under Right 13-7783 shall be reduced by the same proportion as the reduction of Rights 13-697A and 13-698.

This cumbersome condition does not provide Whiskey Creek Ranch the opportunity to manage water supplies as it sees fit. Petitioner requests that there be a removal of this condition or that it be modified to specifically list the mitigation portion of these rights.

- (B) All rights include the standard condition limiting the rights to no more than 0.02 cfs per acre nor more than 3.5 afa per acre. Although the 0.02 cfs per acre limit should not be a concern because all of the rights were within this limit already, reconsideration of the 3.5 afa per acre is requested since this is a new limit that was not included in the originally decreed water rights.

**II.
PERMIT NO. 13-7783**

Reconsideration is requested for the following reasons:

1. The permit does not include volume for evaporation (0.74 AF), which would be a total of 12.1 AF;
2. Conditions #4 and #5 are conflicting and unworkable. Condition #4 states that Water Right Nos. 13-697A and 13-698 authorize diversion of water, while condition #5 states that the same water authorized for diversion in condition #4 cannot be diverted; and
3. Condition #5 is problematic under the transferred rights for the same reason identified as #1 above.

DATED this 23rd day of December, 2011.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By: 
CANDICE M. McHUGH