

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 73930

This is to certify that: WARM SPRINGS DITCH CO

C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83646
(208)884-2002

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>
63-192	WR/Decreed	06/01/1876	2.3 cfs	N/A	N/A	449.0	BOISE RIVER
63-216C	WR/Decreed	06/01/1889	0.4 cfs	N/A	N/A	449.0	BOISE RIVER
63-19425	WR/Decreed	06/01/1882	5.06 cfs	N/A	N/A	449.0	BOISE RIVER

Purpose of Transfer (Changes Proposed)

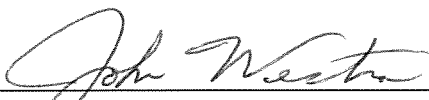
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-192	NO	NO	YES	NO	NO	YES
63-216C	NO	NO	YES	NO	NO	YES
63-19425	NO	NO	YES	NO	NO	YES

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>
63-192	63-192	2.3 cfs	N/A	N/A	435.0		N/A	N/A	N/A	N/A
63-216C	63-216C	0.4 cfs	N/A	N/A	435.0		N/A	N/A	N/A	N/A
63-19425	63-19425	5.06 cfs	N/A	N/A	435.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		7.76 cfs	N/A	N/A	435.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 12th day of December, 20 11


John Westra, Western Regional Manager

SUPPORT DATA

IN FILE # 63-192

WATER RIGHT NO. 63-192
As Modified by Transfer No. 73930

In accordance with the approval of Transfer No. 73930, Water Right No. 63-192 is now described as follows.

Right Holder: WARM SPRINGS DITCH CO
 C/O BRIAN HOFF
 1840 N LAKES AVE
 MERIDIAN ID 83646

Priority Date: June 01, 1876

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
AESTHETIC STORAGE	01/01	to 12/31		23.3 AF
DIVERSION TO STORAGE	03/01	to 11/15	0.13 CFS	
IRRIGATION	03/01	to 11/15	2.17 CFS	
			2.30 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER	L11 (NESE)	Sec. 5 Twp 03N Rge 02E ADA County
BOISE RIVER	L6 (SENW)	Sec. 22 Twp 04N Rge 01E ADA County

<u>PLACE OF USE:</u>			AESTHETIC STORAGE ONLY																<u>Totals</u>
Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04N	01E	19	X																
04N	01E	20			X	X	X	X	X	X					X	X			
04N	01E	21			X				X	X	X	X							

CONDITIONS OF APPROVAL

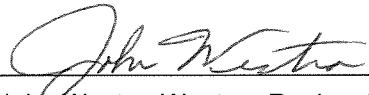
- The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
- Place of use is within the area served by Warm Springs Ditch Co.
- The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- 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.
- This right is limited to the irrigation of 435 acres within the boundary of Warm Springs Ditch Co.

WATER RIGHT NO. 63-192
As Modified by Transfer No. 73930
CONDITIONS OF APPROVAL

7. Rights 63-192, 63-216C and 63-19425 authorize the diversion of an annual total of 37.8 af to be used for the replacement of losses caused by evaporation from the 13.0 acre total surface area of ponds established under Right 63-31690.
8. Rights 63-192, 63-216C and 63-19425 also authorize the diversion of an annual total of 40.7 af to be used for the replacement of losses caused by evaporation from the 14.0 acre total surface area of ponds established under Right 63-32366.
9. 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
10. 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.
11. Water is delivered through the Thurman Mill Canal and the Warm Springs Canal.
12. 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.
13. This right is designated as No. 61 in the Stewart Decree and the Boise River Water Masters records.
14. The following rights are diverted through point of diversion described above as the NESE, S5, T3N, R2E: 63-135, 63-176, 63-192, 63-193, 63-210, 63-211, 63-216C, 63-221, 63-250, 63-19425, 63-30125, 63-30129, 63-30130, 63-30131, and 63-31936.
15. The following rights are diverted through point of diversion described above as the SENW, S22, T4N, R1E: 63-192, 63-216C and 63-19425.

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 12th day of December, 20 11


John Westra, Western Regional Manager

WATER RIGHT NO. 63-216C
As Modified by Transfer No. 73930

In accordance with the approval of Transfer No. 73930, Water Right No. 63-216C is now described as follows.

Right Holder: WARM SPRINGS DITCH CO
 C/O BRIAN HOFF
 1840 N LAKES AVE
 MERIDIAN ID 83646

Priority Date: June 01, 1889

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	0.38 CFS	
AESTHETIC STORAGE	01/01	to 12/31		4.1 AF
DIVERSION TO STORAGE	03/01	to 11/15	0.02 CFS	
			0.40 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER	L11 (NESE)	Sec. 5 Twp 03N Rge 02E	ADA County
BOISE RIVER	L6 (SENW)	Sec. 22 Twp 04N Rge 01E	ADA County

PLACE OF USE:

<u>PLACE OF USE:</u>			AESTHETIC STORAGE																Totals
Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	19	X																
04N	01E	20			X	X	X	X	X	X					X	X			
04N	01E	21			X				X	X	X	X							

CONDITIONS OF APPROVAL

- The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
- Place of use is within the area served by Warm Springs Ditch Co.
- The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- 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.
- This right is limited to the irrigation of 435 acres within the boundary of Warm Springs Ditch Co.

WATER RIGHT NO. 63-216C
As Modified by Transfer No. 73930

CONDITIONS OF APPROVAL

7. Rights 63-192, 63-216C and 63-19425 authorize the diversion of an annual total of 37.8 af to be used for the replacement of losses caused by evaporation from the 13.0 acre total surface area of ponds established under Right 63-31690.
8. Rights 63-192, 63-216C and 63-19425 also authorize the diversion of an annual total of 40.7 af to be used for the replacement of losses caused by evaporation from the 14.0 acre total surface area of ponds established under Right 63-32366.
9. 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
10. 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.
11. Water is delivered through the Thurman Mill Canal and the Warm Springs Canal.
12. 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.
13. This right is designated as No. 116 in the Stewart Decree and the Boise River Water Masters records.
14. The following rights are diverted through point of diversion described above as the NESE, S5, T3N, R2E: 63-135, 63-176, 63-192, 63-193, 63-210, 63-211, 63-216C, 63-221, 63-250, 63-19425, 63-30125, 63-30129, 63-30130, 63-30131, and 63-31936.
15. The following rights are diverted through point of diversion described above as the SENW, S22, T4N, R1E: 63-192, 63-216C and 63-19425.

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 12th day of December, 20 11


John Westra, Western Regional Manager

WATER RIGHT NO. 63-19425
As Modified by Transfer No. 73930

In accordance with the approval of Transfer No. 73930, Water Right No. 63-19425 is now described as follows.

Right Holder: WARM SPRINGS DITCH CO
 C/O BRIAN HOFF
 1840 N LAKES AVE
 MERIDIAN ID 83646

Priority Date: June 01, 1882

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
AESTHETIC STORAGE	01/01	to 12/31		51.1 AF
DIVERSION TO STORAGE	03/01	to 11/15	0.29 CFS	
IRRIGATION	03/01	to 11/15	4.77 CFS	
			5.06 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER	L11 (NESE)	Sec. 5 Twp 03N Rge 02E	ADA County
BOISE RIVER	L6 (SENW)	Sec. 22 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	19	X																
04N	01E	20			X	X	X	X	X	X					X	X			
04N	01E	21			X				X	X	X	X							

CONDITIONS OF APPROVAL

1. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
2. Place of use is within the area served by Warm Springs Ditch Co.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this 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 transfer.
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. This right is limited to the irrigation of 435 acres within the boundary of Warm Springs Ditch Co.

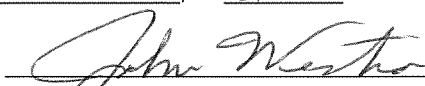
WATER RIGHT NO. 63-19425
As Modified by Transfer No. 73930

CONDITIONS OF APPROVAL

7. Rights 63-192, 63-216C and 63-19425 authorize the diversion of an annual total of 37.8 af to be used for the replacement of losses caused by evaporation from the 13.0 acre total surface area of ponds established under Right 63-31690.
8. Rights 63-192, 63-216C and 63-19425 also authorize the diversion of an annual total of 40.7 af to be used for the replacement of losses caused by evaporation from the 14.0 acre total surface area of ponds established under Right 63-32366.
9. 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
10. 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.
11. Water is delivered through the Thurman Mill Canal and the Warm Springs Canal.
12. 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.
13. This right is designated as Nos. 81, 82, 83, 84 and 85 in the Stewart Decree and the Boise River Water Masters records.
14. The following rights are diverted through point of diversion described above as the NESE, S5, T3N, R2E: 63-135, 63-176, 63-192, 63-193, 63-210, 63-211, 63-216C, 63-221, 63-250, 63-19425, 63-30125, 63-30129, 63-30130, 63-30131, and 63-31936.
15. The following rights are diverted through point of diversion described above as the SENW, S22, T4N, R1E: 63-192, 63-216C and 63-19425.
16. This right is a combination of old Water Right Nos. 63-217, 63-218, 63-220 and parts of 63-214 and 63-219.

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 12th day of December, 20 11

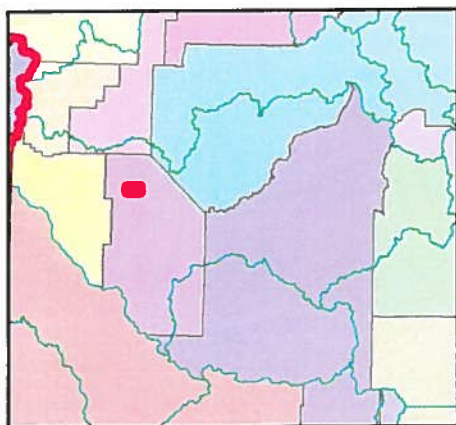

John Westra, Western Regional Manager



Warm Springs Ditch Co

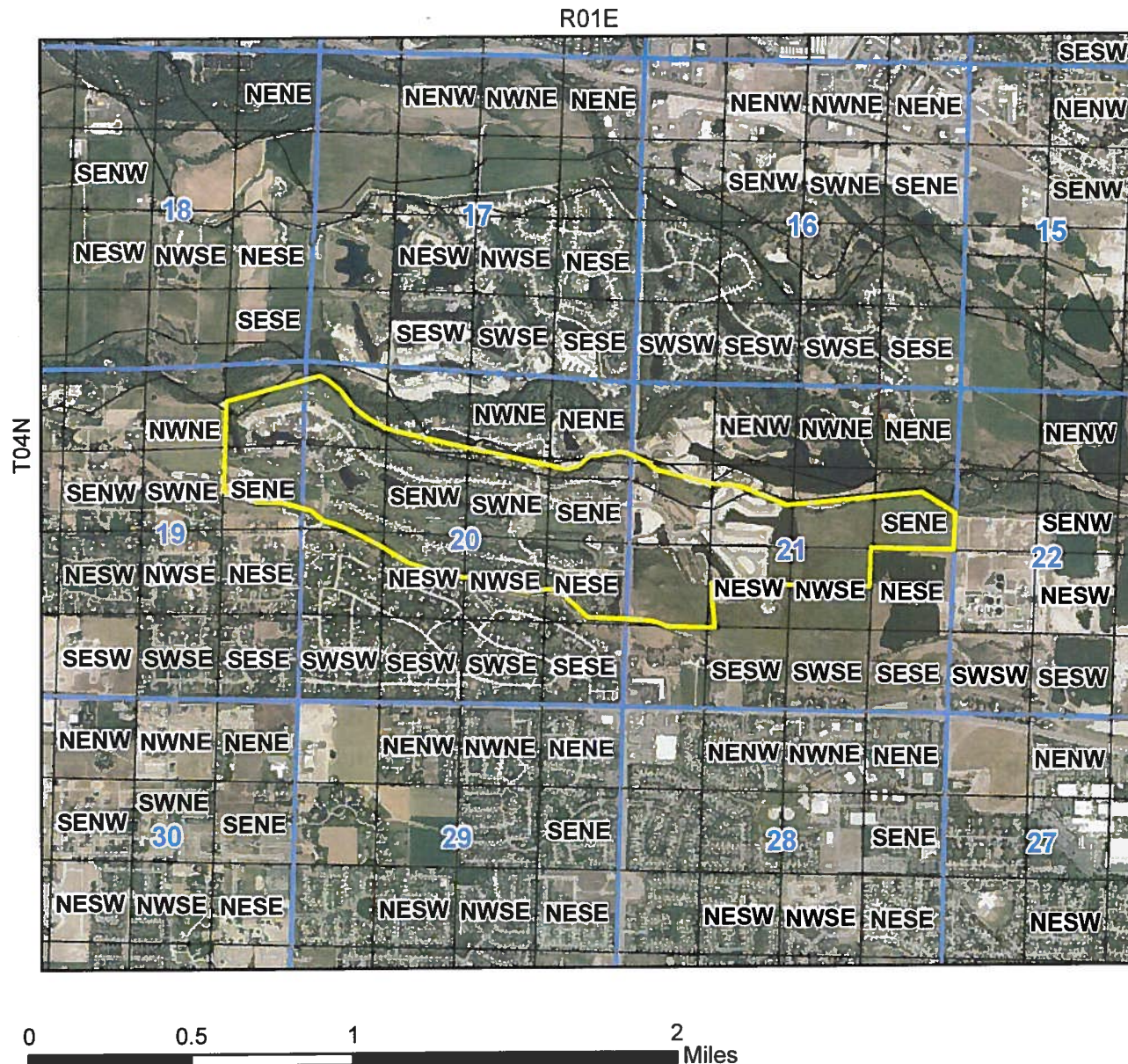
Water Rights: 63-192, 63-216C, 63-19425

Irrigation Service Area Boundary
GIS Place of Use Illustration
Legend



Ada County
IDWR Basin 63

Prepared by Curtis, Sharla
On December 12, 2011
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

December 12, 2011

WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83646

RE: Transfer No.: 73930
Water Right No(s): 63-216C 63-19425 63-192

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,


for John Westra
Western Regional Manager

Enclosure(s)

cc: ERO RESOURCES CORP

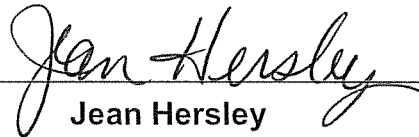
CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 73930
WATER RIGHTS NOS. 63-216C 63-19425 63-192

ERO RESOURCES CORP
C/O STEVE HANNULA
3314 GRACE ST
BOISE ID 83703

WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83646

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

Jean Hersley
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.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000574043	LEGAL NOTICE	BWEagle Inc	\$286.45	2	82

Attention: Sherry Borgeman

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:

63-32366
B W EAGLE INC
250 S BEECHWOOD STE 120
BOISE, ID 83709
Point of Diversion NWSW S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion L6(SENW) S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion L5(SWNW) S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion NESW S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion NESW S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion NWSW S21 T04N R01E ADA County Source
GROUND WATER Tributary
Point of Diversion L5(SWNW) S21 T04N R01E ADA County Source
GROUND WATER Tributary
Use: AESTHETIC STORAGE 01/01 to 12/31 533 AF
Total Diversion: 533 AF
Date Filed: 3/27/2006
Place Of Use: AESTHETIC STORAGE
T04N R01E S21 L7(SWNE) L5(SWNW) L6(SENW) NESW
NWSW SWSW SESW
Water bearing zone to be appropriated is from 0 to 28 feet.
Mitigation is proposed for consumptive use.

63-33578
DONALD W PADDOCK
LINDA S PADDOCK
4982 N CURLEW LN
EAGLE, ID 83616
Point of Diversion NESW S30 T05N R01E ADA County Source
GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 9/23/2011
Place Of Use: IRRIGATION
T05N R01E S30 NESW NWSW
Total Acres: 10
Water bearing zone to be appropriated is from 250 to 350 feet.

PROPOSED CHANGE OF WATER RIGHT

Thurman Mill Ditch Co Ltd of 10611 W Treeline Ct, Boise, ID 83713 filed Application No. 73900 to transfer one water right with an 1895 priority date from the Boise River totaling 0.66 cfs. The purpose of the transfer is to change the nature of use for 8.2 acres, 0.16 cfs and 23.9 afa to aesthetic storage and diversion to storage. The proposed change will mitigate for evaporative losses from the ponds in the Lakemoor subdivision. An application for permit 63-32366 was filed for the Lakemoor pond system. Water will be used in the Thurman Mill Ditch Co service area in the Lakemoor subdivision located northeast of the intersection of Chinden Blvd and Eagle Rd in Boise, ID.

PROPOSED CHANGE OF WATER RIGHTS

Warm Springs Ditch Co, c/o Hoff Companies, Inc. of 1840 N Lakes Ave., Meridian, ID 83642 filed Application No. 73930 to transfer three water rights with 1876 to 1889 priority dates from the Boise River totaling 7.76 cfs. The purpose of the transfer is to change the nature of use for 14 acres, 0.24 cfs and 40.7 afa to aesthetic storage and diversion to storage. The proposed change will mitigate for evaporative losses from the ponds in the Lakemoor subdivision. An application for permit 63-32366 was filed for the Lakemoor pond system. Water will be used in the Warm Springs Ditch Co service area in the Lakemoor subdivision located northeast of the intersection of Chinden Blvd and Eagle Rd. Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190, or see www.idwr.idaho.gov/apps/ExtSearch/WRfiling.asp for a full description of the rights &/or proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222 and 42-203A. 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 November 21, 2011. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Interim Director

Pub. Nov. 3,10, 2011

0000574043:01

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: 11/03/2011

Ending issue of: 11/10/2011

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 10 day of November in the year of 2011 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 first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Cecily Brainer
Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15

*✓ OK
8/11/16/2011*

MEMORANDUM

TO: Transfer No. 73930 File

FROM: Vicky Music

DATE: 9/1/11

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change the purpose of use for 14 acres of the Warm Springs Ditch Co. water right nos. 63-192, 63-216C and 63-19425 to diversion to storage and aesthetic storage to mitigation for the evaporative losses from a system of ponds in the Lakemoor subdivision. Application for permit 63-32366 was filed for the ponds.

The Lakemoor subdivision is located northeast of the intersection of Eagle Rd. and Chinden Blvd, in Boise, Idaho.

Contact person for the applicant is consultant, Steve Hannula, ERO Resources Corp.

Deviations from Transfer Policy Standards

The application was file in 2006 on an older form that is no longer used. However, the application is complete so this should not delay processing of the application. The application complies with Transfer Memo #24.

The rights proposed to be transferred were decreed a total quantity of 7.76 cfs. The fee to transfer 7.76 cfs was \$530.00 in 2006 when this transfer was filed. The applicant paid a reduced fee of \$250.00, and explained in the transfer cover letter that this fee was based on the quantity of 0.24 cfs proposed to be transferred, instead of the full quantity.

Summary of Information Submitted

Authority to File:

The applicant, as the IDWR owner of record, has the authority to file the application.

Water Right Validity:

The 3 rights are presumed to be valid because the SRBA Court issued the partial decrees on 12/10/2007, within the past five year period.

Injury to Other Water Rights:

No injury is expected from this nature of use change.

Enlargement of Use:

No enlargement of the diversion rate, diversion volume or consumptive use volume is proposed or expected. The 14 acres [0.24 cfs] that will be changed to mitigation have been irrigated pasture and diversion to aesthetic storage will occur during the irrigation season of use. The application proposes a "1:1" swap because the evaporative losses from the ponds are less than or equal to losses associated with irrigation. The application was filed before 2010 so the 1983 Brockway consumptive use analysis was used and 2.9 af/acre was determined to be the consumptive use for pasture in Boise. $14 \text{ acres} \times 2.91 \text{ afa} = 40.7 \text{ afa}$, the consumptive losses volume estimated by the transfer proposal.

Local Public Interest:

There are no apparent public interest issues.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use 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.

Additional Information/Analysis

The consultant is well known to IDWR and routinely files very complete applications. All information necessary for evaluation of the transfer application per Transfer Memo # 24 was submitted. No analysis from other IDWR programs or personnel is needed. The application is not being parallel processed with the SO.

However, more information was required for the companion application for permit, 63-32366. The application for permit proposes 533 afa of storage water from shallow ground water from a depth of 0 – 24 feet bgl. Due to the volume proposed, Rule 40 information was requested regarding the effect of this appropriation on senior shallow ground water uses in the area, the sufficiency of water for the proposal and the status of local governmental requirements. The consultant provided the additional information requested.

Comments will be solicited from the Boise River Watermaster, Water District No. 63. It is not necessary to solicit additional comments.

Discussion

The application was filed in 2006 and was held due to the SRBA. Specifically, the Thurman Mills Ditch Co. also filed for a transfer [right 63-250] to mitigate for the Lakemoor ponds. The SRBA Court did not issue the partial decree for 65-250 until 2009, which held up processing of the 3 applications in this pond package.

Data entry affected the correct record. The partial decrees were issued & results were migrated to wr records. SRBA status was provided above. There are no Water Bank issues.

The 3 rights that are proposed to be transferred share the same 2 PODs and are used on the same 449-acre POU. There are no other overlapping rights. The place of use for irrigation for the three rights will be decreased by 14 acres from 449 to 435 acres.

The priority dates for the 3 rights are 1876, 1882 and 1889. The priority dates make it unlikely these rights will ever be curtailed, so the rights are excellent candidates for mitigation.

Summary

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

Condition 046 n/a because new wells are not proposed.