

Should questions arise during the processing of this application please contact:
Steven R. Hannula - ERO Resources Corp. (208) 373-7983

RECEIVED

MAR 27 2006

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
Part 1

Name of applicant Warm Springs Ditch Co. c/o Hoff Companies Inc.

Phone 208-884-2002

Post Office address 1840 N. Lakes Ave. Meridian, ID 83642

A. Purpose of Transfer

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes: To identify an additional 14 acres of land to be converted from irrigation to pond area (in addition to the existing 13 acres of pond) and mitigate potential impacts resulting from an Application for Permit filed by BW Eagle Inc.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>63-0192</u>	<u>06-01-1876</u>	<u>2.17 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>4.77 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>0.38 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-0192</u>	<u>06-01-1876</u>	<u>23.3*</u>	<u>Aesthetic Storage</u>	<u>1-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>51.1*</u>	<u>Aesthetic Storage</u>	<u>1-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>4.1*</u>	<u>Aesthetic Storage</u>	<u>1-1 to 11-15</u>
<u>63-0192</u>	<u>06-01-1876</u>	<u>0.13 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>0.29 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>0.02 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>

2. Total amount of water being transferred 0.24 cubic feet per second and/or 40.7 acre-feet per annum.

*Diversion to Storage and Storage will provide the 78.5 afa needed to mitigate evaporative losses incurred by the 27 acres (total) of ponds. Only 0.24 cfs are being transferred so we request that the \$250 filing fee apply.

3. Source of water Boise River tributary to Snake River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
11		NE	SE	5	3N	2E	Ada	
6		SE	NW	22	4N	1E	Ada	

5. Lands irrigated or place of use: 435 acres of irrigation and 27 acres of ponds within the service area boundary.

Twp	Rge	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	19	J/X			X													
4N	1E	20			J/X	J/X		J/X	J/X	J/X	X	X			J/X	J/X			
4N	1E	21			J/X	X			J/X	J/X	J/X	J/X				X			

Total acres 435 acres in PPU

PART 1

6. General Information:

- a. Description of diversion system Diversion from the Boise River into canals (Thurman Mill and Warm Springs), ponds, a perforated pipe collector gallery, pumping stations, and sprinkler system irrigation.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes XX No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: No change in Place of Use. Formerly irrigated pasture will be converted to pond.
- d. Remarks: See attached

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
 And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 20 _____.

PART 2 (63-192)

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED***(If the entire right is to be changed by the applicant, omit part B and C.)*1. Amount 0.07 cfs for IRRIGATION purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE¼	N W ¼	SW¼	SE ¼	NE ¼	NW ¼	SW ¼	SE¼	NE ¼	NW ¼	SW ¼	SE ¼	NE¼	NW¼	S W ¼	SE ¼	
4N	1E	21			X				X	X	X	X							

Total acres 14**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*1. Amount 2.17cfs for IRRIGATION purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount 0.06 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount 11.2 ac-ft for AESTHETIC STORAGE purposes from 1-1 to 12-31

(cfs/ac-ft)

2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	19	J/X			X													
4N	1E	20			J/X	J/X		J/X	J/X	J/X	X	X			J/X	J/X			
4N	1E	21			J/X	X			J/X	J/X	J/X	J/X				X			

Total acres 435 acres in PPU

PART 2 (63-19425)

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED***(If the entire right is to be changed by the applicant, omit part B and C.)*1. Amount 0.15 cfs for IRRIGATION purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE¼	N W ¼	SW¼	SE ¼	NE ¼	NW ¼	SW ¼	SE¼	NE ¼	NW ¼	SW ¼	SE ¼	NE¼	NW¼	S W ¼	SE ¼	
4N	1E	21			X				X	X	X	X							

Total acres **14****C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*1. Amount 4.77cfs for IRRIGATION purposes from 3-1 to 11-15
(cfs/ac-ft)Amount 0.14 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)Amount 24.6 ac-ft for AESTHETIC STORAGE purposes from 1-1 to 12-31
(cfs/ac-ft)2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	19	J/X			X													
4N	1E	20			J/X	J/X		J/X	J/X	J/X	X	X			J/X	J/X			
4N	1E	21			J/X	X			J/X	J/X	J/X	J/X				X			

Total acres **435 acres in PPU**

PART 2 (63-216C)

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED***(If the entire right is to be changed by the applicant, omit part B and C.)*1. Amount 0.01 cfs for IRRIGATION purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft)

2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE¼	N W ¼	SW¼	SE ¼	NE ¼	NW ¼	SW ¼	SE¼	NE ¼	NW ¼	SW ¼	SE ¼	NE¼	NW¼	S W ¼	SE ¼	
4N	1E	21			X				X	X	X	X							

Total acres **14****C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*1. Amount 0.38cfs for IRRIGATION purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount 0.01 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15

(cfs/ac-ft)

Amount 2 ac-ft for AESTHETIC STORAGE purposes from 1-1 to 12-31

(cfs/ac-ft)

2. Points of Diversion: **NO CHANGE**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	19	J/X			X													
4N	1E	20			J/X	J/X		J/X	J/X	J/X	X	X			J/X	J/X			
4N	1E	21			J/X	X			J/X	J/X	J/X	J/X				X			

Total acres **435 acres in PPU**

PART 3

B. CHANGES IN NATURE OF USE

- | 1. | New Nature of Use | Amount
(cfs/ac-ft) | Hours/days/year | Period of Use |
|----|-----------------------------|-----------------------|-----------------------------|---------------------|
| | <u>Aesthetic storage</u> | <u>40.7</u> | <u> </u> | <u>3-1 to 11-15</u> |
| | <u>Diversion to storage</u> | <u>0.24</u> | <u> </u> | <u>3-1 to 11-15</u> |
2. Quantity and quality of return flows and location of discharge: None
3. Describe effects on other water uses resulting from the proposed change: The existing water rights underlying the ponds are changed to aesthetic storage and diversion to storage where the evaporation losses from the ponds are equivalent to the losses associated with irrigation of the same land. After this transfer, the ponds will comprise a total of 27 acres surface area on lands that have historically been serviced by the Warm Springs Ditch Company.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

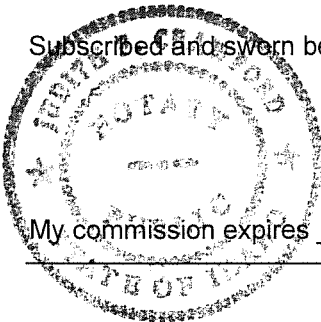

(Signature of Applicant)

BRIAN C. HOFF
PRESIDENT, WARM SPRINGS
DITE COMPANY

Subscribed and sworn before me this 17 day of February, 20 06.

Justin J. Crawford
(Notary Public)

My commission expires 12/9/2010



FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 23 attachments

Received by LG Date 3-27-06 Protest filed by _____

Prelim. check by VKM Fee 250⁰⁰

Received by Lg Date 3-27-06 W 033989

Published in _____ Copies of protest forwarded by _____

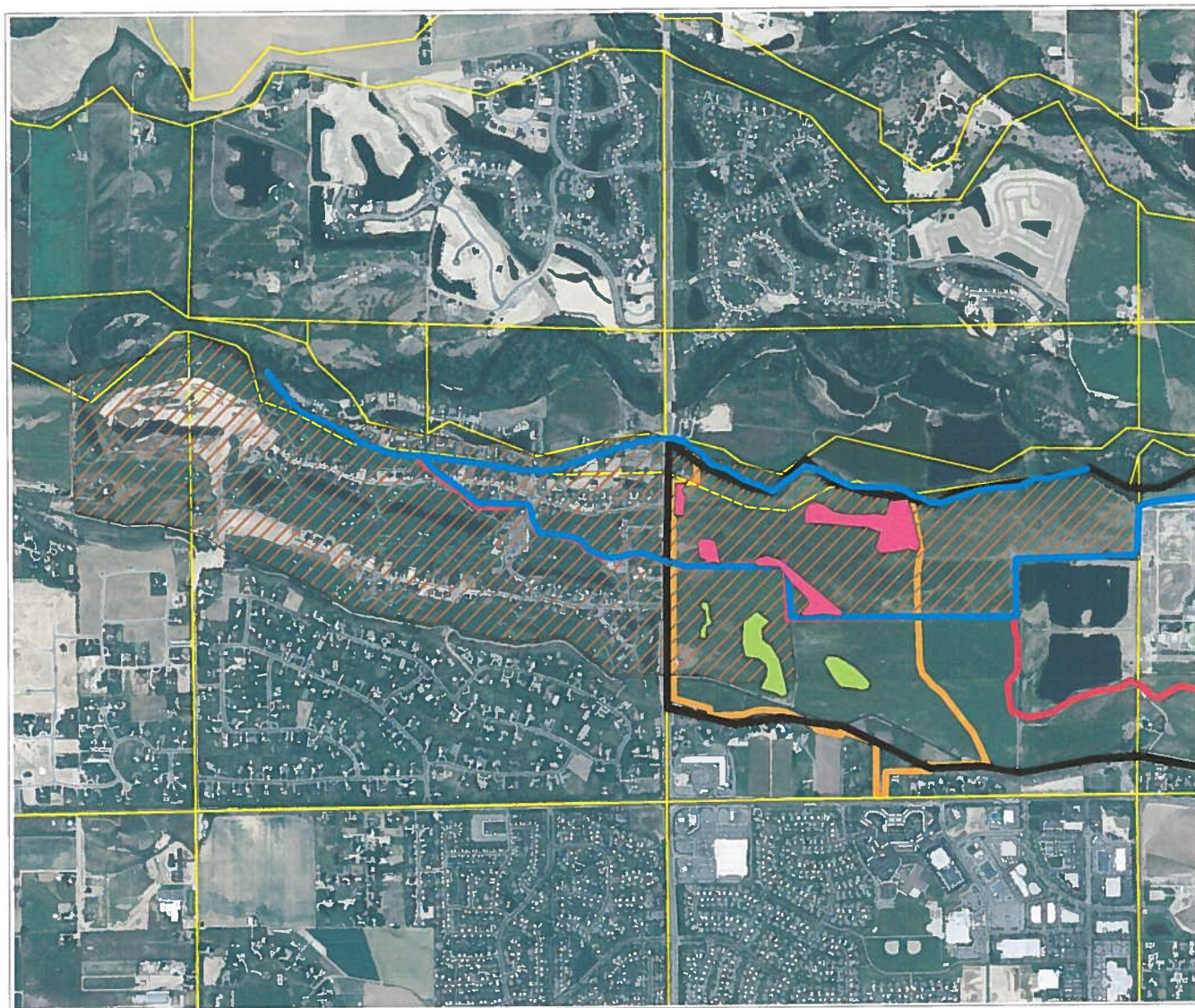
Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

rec'd. by

Copy of transfer sent to lien holder

Warm Springs Ditch Company (T4N, R1E Section 20 and 21)



- Proposed*
- Ponds serviced by Thurman Mill
 - Ponds serviced by Warm Springs
 - Warm springs ditch
 - Thurman mill canal
 - Thurman Mill PPU
 - Warm Springs PPU
 - Sections
 - QQ
 - Development boundary



1 0 1 Miles

Page 1 of 1

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-00192

FILED
2007 DEC 10 7 3 41

NAME AND ADDRESS: WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN, ID 83646

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 2.30 CFS

The total instantaneous diversion of water from all points of diversion under Rights 63-192, 63-216C and 63-19425 shall not exceed 7.76 cfs for the irrigation of 449.0 acres and diversion to aesthetic storage.

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.

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.

PRIORITY DATE: 06/01/1976

POINT OF DIVERSION: T03N R02E S05 LOT 11 (NESE) Within Ada County
T04N R01E S22 LOT 6 (SENE)

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	2.24 CFS
Aesthetic Storage	01-01 TO 12-31	11.20 AFY
Diversion to Storage	03-01 TO 11-15	0.06 CFS

Diversion for irrigation and aesthetic storage under this 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 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 the 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

Attachment A

Part 2 : Attachment (6 pages)

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PURPOSE AND PERIOD OF USE (continued)

storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:	Aesthetic Storage	Within Ada County
	T04N R01E S19 LOT 1 (NENE)	
	S20 LOT 7 (SWNE)	LOT 8 (SENE)
	LOT 5 (NWNW)	SWNW
	LOT 6 (SENW)	NESE
	NWSE	

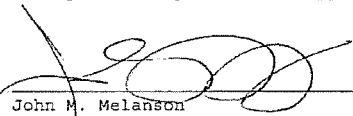
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 449 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to 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.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-00216C

FILED
2007 DEC 10 PM 3 41

NAME AND ADDRESS: WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN, ID 83646

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.40 CFS

The total instantaneous diversion of water from all points of diversion under Rights 63-192, 63-216C and 63-19425 shall not exceed 7.76 cfs, for the irrigation of 449 acres and diversion to aesthetic storage.

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.

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.

PRIORITY DATE: 06/01/1989

POINT OF DIVERSION: T03N R02E S05 LOT 11 (NESE) Within Ada County
T04N R01E S22 LOT 6 (SENW)

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	0.39 CFS
Aesthetic Storage	01-01 TO 12-31	2.00 AFY
Diversion to Storage	03-01 TO 11-15	0.01 CFS

Diversion for irrigation and aesthetic storage under this 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 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 the 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

PURPOSE AND PERIOD OF USE (continued)

storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

Aesthetic Storage	Within Ada County
T04N R01E S19 LOT 1 (NENE)	
S20 LOT 7 (SWNE)	LOT 8 (SENE)
LOT 5 (NWNW)	SWNW
LOT 6 (SENW)	NESE
NWSE	

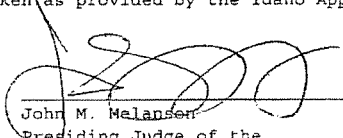
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 449 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to 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.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-19425

NAME AND ADDRESS: WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN, ID 83646

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 5.06 CFS

The total instantaneous diversion of water from all points of diversion under Rights 63-192, 63-216C and 63-19425 shall not exceed 7.76 cfs, for the irrigation 449 acres and diversion to aesthetic storage.

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.

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.

PRIORITY DATE: 06/01/1882

POINT OF DIVERSION: T03N R02E S05 LOT 11 (NESE) Within Ada County
T04N R01E S22 LOT 6 (SENW)

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	4.92 CFS
	Aesthetic Storage	01-01 TO 12-31	24.60 AFY
	Diversion to Storage	03-01 TO 11-15	0.14 CFS

Diversion for irrigation and aesthetic storage under this 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 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 the 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

PURPOSE AND PERIOD OF USE (continued)

storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

Aesthetic Storage	Within Ada County
T04N R01E S19 LOT 1 (NENE)	
S20 LOT 7 (SWNE)	LOT 8 (SENE)
LOT 5 (NWNW)	SNNW
LOT 6 (SENW)	NESE
NWSE	

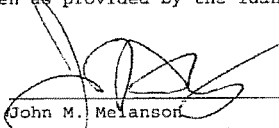
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 449 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to 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.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Warm Springs Ditch Co. Transfer Calculations

	Use	Current				% of Div Rate	Lakemoor	Transfer Values
		cfs	Vol	Acres	rate/ac			
63-192	Irrigation	2.24				30%	2.17	2.17
	Div. to Storage	0.06					0.07	0.13
	Storage		11.2				12.1	23.3
63-19425	Irrigation	4.92				65%	4.77	4.77
	Div. to Storage	0.14					0.15	0.29
	Storage		24.6				26.5	51.1
63-216c	Irrigation	0.39				5%	0.38	0.38
	Div. to Storage	0.01					0.01	0.02
	Storage		2				2.1	4.1
Total	Irrigation	7.55		449	0.017	100%	7.31	7.31
	Div. to Storage	0.21		13	0.016		0.24	0.45
	Storage		37.8	13	2.91		40.7	78.5
Not to exceed	Total	7.76		462	0.017			435 ac
Pond acres							14	27 (Total)

Storage and Diversion to Storage is for evaporative losses only.

Storage of groundwater (initial fill) will be covered under a companion Application for Permit.

ATTACHMENT B

**Remarks for
Application for Transfer
In the Name of Warm Springs Ditch Company**

In a separate transaction, Dennis Baker & Associates has applied to the Department for a permit to appropriate for Aesthetic Storage 533 acre-feet (22.2 acres * 24 ft) of ground water that would accrue to shallow excavated ponds. The proposed ponds have a total surface area of 22.2 acres. 14 acres of the 22.2 are within the Warm Springs service area and historically have been irrigated with water delivered by Warm Springs Ditch Co.

This transfer is submitted by Warm Springs Ditch Company (applicant) to satisfy IDWR's concerns involving new ground water appropriation in the Treasure Valley and thereby allowing processing of the Dennis Baker & Associates' application for permit to proceed out of sequence from the backlog of applications now pending in the basin (per IDWR Pond memo date November 2005).

This transfer seeks a change in use to authorize the diversion to storage and storage of water for an additional 40.7 ac-ft/yr (for a total of 78.5 ac-ft/yr) to be used for replacement of losses caused by evaporation from 14 acres (in addition to the existing 13) of ponds. The new 14 acres of pond will require an additional 40.7 afa of water to be maintained for mitigation (14 acres* 2.91 ac-ft/yr (Allen Brockway, 1983; same value used in transfer 70620)). By maintaining the water in the ponds, this water is then available to recharge the shallow ground water system as compensation for evaporation off the pond's surfaces.

Based on the above discussion and assumptions, this transfer will not result in an enlargement of the water right or cause injury to other water rights because the number of acres to which the water right will be applied, and the net consumptive use of water, will not increase. The land that will be converted to pond has historically been irrigated for pasture grass. The transfer will retire 1 acre of irrigation for each acre of pond surface area.

The transfer proposes to apply all water under the affected portion of the Warm Springs water rights to recognized beneficial uses, and will continue beneficial use of the water right within the Warm Springs service area for its shareholders. The transfer also will facilitate the use of ground water without depleting the resource. For these reasons, the transfer is in the public interest.

Borgeman, Sherry

From: Borgeman, Sherry
Sent: Tuesday, October 25, 2011 9:36 AM
To: 'waterdistrict63@qwestoffice.net'
Subject: Comment Letter for transfer application #73900 & 73930
Attachments: Watermaster Recommendation form for B 63 Transfer 73900.doc; Watermaster Recommendation form for B 63 Transfer 73930.doc; Transfer 73900 Ap.pdf; Transfer 73930 Ap.pdf; Comment Letter to WD63 for Transfers.doc

Attached is a cover letter & copies of application(s) for your review and/or comment. If you have any questions regarding this information please feel free to contact this office.

Thank you,

Sherry Borgeman
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

October 24, 2011

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR, ID 83669-0767

RE: Transfer No. 73900
Water Right No(s): 63-250

RE: Transfer No. 73930
Water Right No(s): 63-0192, 63-216C , 63-19425

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Sherry Borgeman
Administrative Assistant

Enclosure(s)

Borgeman, Sherry

From: Borgeman, Sherry
Sent: Tuesday, October 25, 2011 8:13 AM
To: 'LEGALS@IDAHOSTATESMAN.COM'
Subject: Legal Notice
Attachments: Ada County - Cover Letter.Doc; Ada County - Legal Notice.doc

Attached is (1) legal notice being submitted for publication. If you have any questions regarding the attached information, or if you can not publish the ad on the dates indicated please contact me immediately.

Sherry Borgeman
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

October 25, 2011

LEGAL NOTICE DEPARTMENT

IDAHO STATESMAN

PO BOX 40

BOISE, ID 83707

RE: Application For Permit No.(s): 63-32366, 63-33578

RE: Transfer No. 73900
Water Right No(s): 63-250

RE: Transfer No. 73930
Water Right No(s): 63-0192, 63-216C , 63-19425

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/21/2011. Your cooperation is appreciated.

Sincerely,

Sherry Borgeman
Administrative Assistant

Enclosure(s)

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
Published on 11/3/2011 and 11/10/2011

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 11, 2011

Steve Hannula
ERO Resources, Inc.
3314 Grace St.
Boise, ID 83703 - 5836

Re Application for Permit 63-32366 (B.W. Eagle Inc.)
Application for Transfer 73930 (Warm Springs Ditch Co., water right nos. 63-192,
63-19425 and 63-216C)
Application for Transfer 73900 (Thurman Mill Ditch Co., water right no. 63-250)

Dear Mr. Hannula:

The applications referenced above have been assigned to me for review and processing. The applications were filed in 2006 and held due to the SRBA status of the water rights proposed to be transferred. The SRBA Court issued the Partial Decrees for the Warm Springs Ditch Co. rights in 2007 and for the Thurman Mill Ditch Co. right in 2009.

Due to the number of years that have elapsed since the applications were filed, do the applicants still wish to pursue these applications? Please confirm in writing either via e-mail or a letter.

The requested information is due September 12, 2011. The applications will be voided or rejected without a timely response and fees will not be refunded. Call me at 208.334.2190 if you wish to discuss the matter. Thank you.

Sincerely,


Vicky Music
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 13, 2006

STEVEN HANNULA
ERO RESOURCES CORP
3314 GRACE ST
BOISE ID 83703-5836

Re: Application for Permit for B. W. Eagle Inc.
Applications for Transfer for Thurman Mill Ditch Co. and Warm Springs Ditch Co.

Dear Mr. Hannula:

The above referenced applications for the Lakemoor Development pond project were recently received. Processing of all the applications must be delayed as explained below.

The transfer applications serve to mitigate consumptive use proposed by the permit application. The transfer applications describe water rights for which Snake River Basin Adjudication (SRBA) Claims have been filed. SRBA Claims in the area affected by the transfer applications are currently being reviewed. The role of the Idaho Department of Water Resources (IDWR) in the SRBA is to review claims and make recommendations regarding those claims to the SRBA Court. Recommendations are presented to the court in a Director's Report. Potentially affected parties may object to recommendations in a Director's Report. This process introduces uncertainty regarding water rights until the objection period is over.

IDWR's limited staff resources must be used to complete the remaining Director's Reports during the coming months. Additionally, experience indicates that processing an application for transfer in an area where a Director's Report is being prepared can result in confusion and complications by mixing judicial (SRBA) and administrative (transfer) actions.

The SRBA objection period for the area in question is expected to conclude sometime during the latter half of this year if not earlier. Based on that schedule and the above reasoning, the transfer applications cannot be processed at this time. The application for permit cannot be processed for obvious reasons. IDWR will hold all three applications and will notify you at the appropriate time when they can be processed.

IDWR regrets the inconvenience undoubtedly caused by this necessary delay. Please contact me at 208-334-2190 if you have any questions in this regard.

Sincerely,

Steve Lester
Water Rights Supervisor



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703-5836
(208) 373-7983
Fax: 373-7985
Denver • Boise • Durango
www.eroresources.com
eroboise@eroresources.com

February 9, 2006

Mr. Steve Lester
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

RE: BW Eagle Application for Permit

Dear Mr. Lester

Enclosed, please find an Application for Permit in the name of BW Eagle Inc. The application seeks to appropriate groundwater for the initial fill of 22.2 acres of shallow ponds to be constructed in the Lakemoor Development along Eagle Rd. in Boise. The application seeks 533 ac-ft of water, so the fee of \$450 is included. The Request to Process form is included.

Mitigation will come in the form of water from Warm Springs Ditch Co. and Thurman Mill Ditch Co. The applicant is assessed by each ditch company and both ditch companies serve lands within the Lakemoor Development boundary. Enclosed, please find Applications for Transfer from each ditch company. When combined, the transfers fully compensate the consumptive use resulting from evaporative losses from the ponds' surface.

The Warm Springs Transfer has a fee of \$250 and the Thurman Mill Transfer has a fee of \$100. The fee amounts are based on the diversion rate associated with the amount of land being retired from irrigation.

If there are any questions, please call me.

Regards,

A handwritten signature in black ink, appearing to read "Steven R. Hannula".

Steven R. Hannula

cc: Warm Springs Ditch Co. c/o Hoff Companies Inc., Thurman Mill Ditch Co. c/o Bryce Farris, BW Eagle Inc.