

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1RECEIVED 73734
Transfer No. _____
SEP 28 2004
Department of Water Resources
Southern RegionName of applicant Indian Crk Ranch Owners Association c/o Dennis Kavanagh Phone 208-788-2599Post Office address P.O. Box 3411 Hailey, ID 83333

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Create PPU
2. Describe the reason for the proposed changes Create a PPU for the water rights associated with the ICROA common areas and lot irrigation from Indian Creek.

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>37-296B</u> | <u>4/1/1880</u> | <u>2.72 cfs</u> | <u>Irrigation</u> | <u>4/15</u> to <u>10/15</u> |
| <u>TBD</u> | <u>4/1/1880</u> | <u>1.29 cfs</u> | <u>Irrigation</u> | <u>4/15</u> to <u>10/15</u> |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 4.01 cubic feet per second and/or 389.2 acre-feet per annum.
3. Source of water Indian Creek tributary to DRY STREAM (352)
4. Point(s) of Diversion: See Attached List for POD locations

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

5. Lands irrigated or place of use: Permissible Place of Use - PPU

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	22											5		21	2	33	19	80
03N	18E	23							9	5	5	36	2						57
03N	18E	27		4			28	5	32	9		2							80
03N	18E	28				15								33	6	21	15		90
03N	18E	33		29	21		2			13	31	1			3				100
03N	18E	34																	

SCANNED
FEB 08 2011

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1RECEIVED 73734
Transfer No. _____
SEP 28 2004
Department of Water Resources
Southern RegionName of applicant Indian Crk Ranch Owners Association c/o Dennis Kavanagh Phone 208-788-2544

Post Office address _____ P.O. Box 3411 Hailey, ID 83333

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Create PPU
2. Describe the reason for the proposed changes Create a PPU for the water rights associated with the ICROA common areas and lot irrigation from Indian Creek.

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
- | | | | | |
|---------|----------|----------|------------|---------------|
| 37-296B | 4/1/1880 | 2.72 cfs | Irrigation | 4/15 to 10/15 |
| TBD | 4/1/1880 | 1.29 cfs | Irrigation | 4/15 to 10/15 |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 4.01 cubic feet per second and/or 389.2 acre-feet per annum.
3. Source of water Indian Creek tributary to DRY STREAM (3512)
4. Point(s) of Diversion: See Attached List for POD locations

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

5. Lands irrigated or place of use: Permissible Place of Use - PPU

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	22												5	21	2	33	19	80
03N	18E	23							9	5	5	36	2						57
03N	18E	27		4			28	5	32	9		2							80
03N	18E	28				15									33	6	21	15	90
03N	18E	33		29	21		2			13	31	1				3			100
03N	18E	34																	

Application for Transfer of Water Right – Supporting Information

Applicant: Indian Creek Ranch Owners Association c/o Dennis Kavanagh

Part #1.B.4 – Point(s) of Diversion:

¼	¼	Sec.	Twp.	Rge.	County	Diversion Name
NE	SE	22	03N	18E	Blaine	
SW	SE	22	03N	18E	Blaine	2 POD's
SW	NW	23	03N	18E	Blaine	2 POD'S
NW	SW	23	03N	18E	Blaine	
NE	NW	27	03N	18E	Blaine	2 POD'S
SE	NW	27	03N	18E	Blaine	
SE	NE	28	03N	18E	Blaine	
NE	SE	28	03N	18E	Blaine	4 POD'S
SW	SE	28	03N	18E	Blaine	
NW	NE	33	03N	18E	Blaine	2 POD'S
NE	SW	33	03N	18E	Blaine	

PART 1

6. General Information:

- a. Description of diversion system Domestic Irrigation = Individual pumps in creek to sprinkler irrigation systems. Common Area Irrigation = Pumps and Ditches to common areas. Combination of flood irrigation and sprinkler 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 ☒ 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 effect on the land now irrigated if the place of use is changed pursuant to this transfer:
None - Place of use adjustment for rights owned by the association

- d. Remarks:
See attached narrative.

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 _____, 19 _____.

Page _____ of _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

RECEIVED

SEP 28 2004

Department of Water Resources
Southern Region

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 37-296B on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. check appropriate box below.

☒ Tax notice☐ Warranty Deed☐ Other _____3. Source of water Indian Creek tributary to _____ DRY STREAM (ISSN)4. Date of priority 4/1/1880

5. Water is used for the following purpose:

Amount 2.72 cfs for Irrigation purposes from 4/15 to 10/15
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right 2.72 cubic feet per second and/or 122.5 acre-feet per annum.7. Point(s) of Diversion: See Attached List

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
								See List

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	22															1.5		1.5
03N	18E	23							1										1
03N	18E	27					5		6	3									14
03N	18E	28												8	2	1	7		18
03N	18E	33		0.5															0.5

Total acres 359. Describe any other water rights used for the same purpose as described above Companion claim (Claim number
TBD)

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 _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

RECEIVED

SEP 28 2004

Department of Water Resources
Southern Region

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. TBD - Filed 9/04 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. check appropriate box below.

☒ Tax notice

☐ Warranty Deed

☐ Other _____

3. Source of water Indian Creek tributary to _____

STREAM
DRY GULCH (ISR)

4. Date of priority 4/1/1880

5. Water is used for the following purpose:

Amount 1.29 cfs for Irrigation purposes from 4/15 to 10/15
(cfs/ac-ft)
Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.29 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See attached list

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
								See List

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	27						3.2	9.5										12.7
03N	18E	28				5.2									12.9		9.0	6.3	33.4
03N	18E	33	0.4	8.2	13.3					7.3						0.9			30.1

Total acres 76.2

9. Describe any other water rights used for the same purpose as described above 37-296B

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 _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

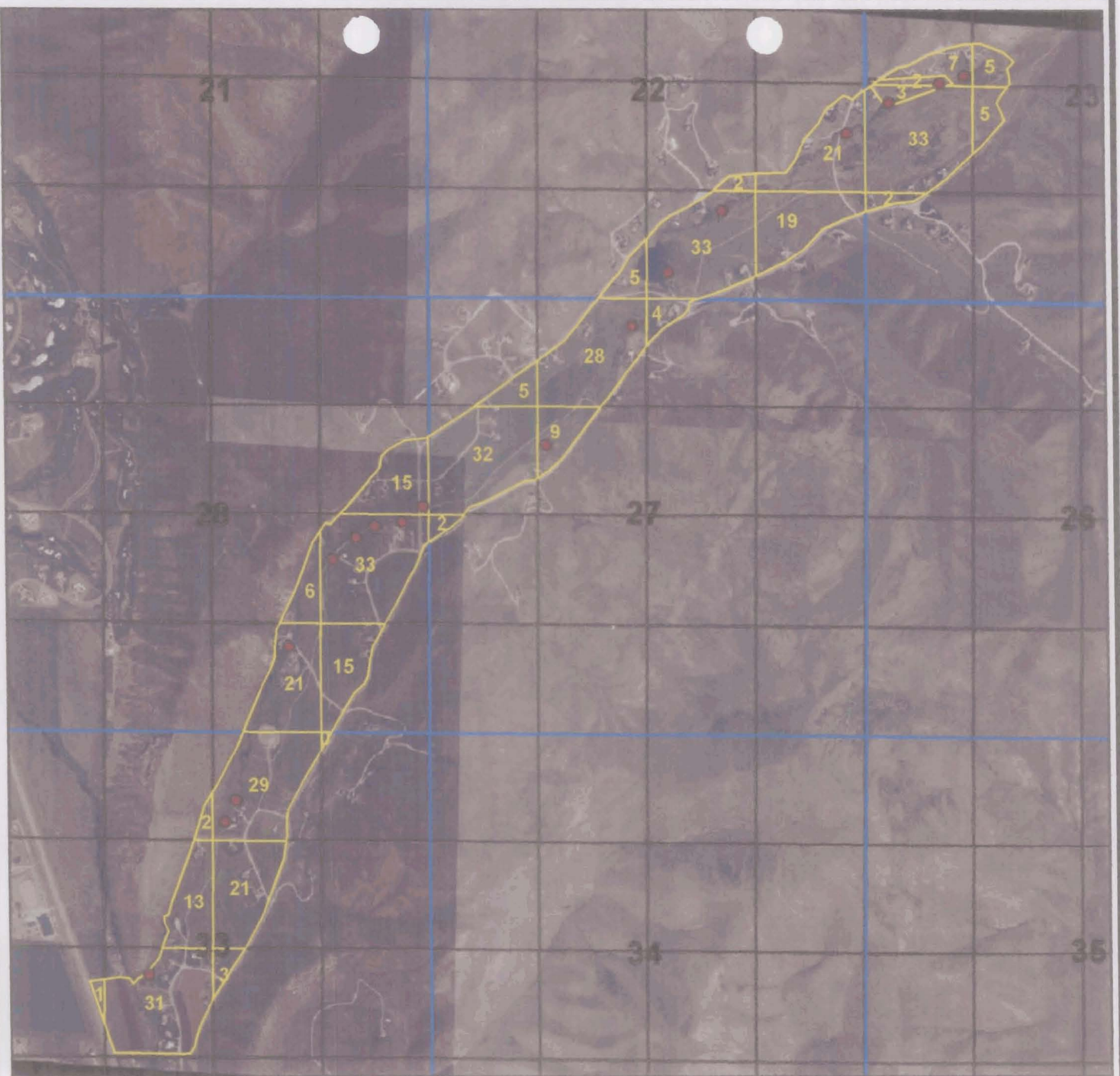
2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____



0 875 1,750 3,500 Feet

INDIAN CREEK HOMEOWNERS
PERMISSIBLE PLACE OF USE
NAIP 2003 AERIAL PHOTO
T.3N., R.18E

LEGEND

- SECTIONS
- T 03N R 18E QQ
- PPU BOUNDARY
- POD

BROCKWAY ENGINEERING, PLLC.
ALR SEPT. 23, 2004



PART 3**B. CHANGES IN NATURE OF USE**

1.

<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
2. Quantity and quality of return flows and location of discharge:

3. Describe the effects on other water uses resulting from the proposed change:

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.



Subscribed and sworn to before me this _____

(Signature of Applicant)

_____ day of Sept, 192007

Sammy J. Geddes
(Notary Public)

My commission expires 06-06-07

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by CP Date 9/28/07 Protest filed by _____

Prelim. check by _____ Fee 5027079.536

Receipted by CP Date 9/28/07

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 _____

Narrative in Support of Water Right Transfer & Claim

Prepared For: Indian Creek Ranch Owners Association
Creation of Permissible Place of Use
Water Right(s): 37-296B & New Claim (#TBD)

The intent of this transfer is to create a permissible place of use and add points of diversion to reflect the irrigation plan for the individual lots and common areas within the association. This right and associated claims are based on historical diversion from Indian Creek for irrigation of land bordering the creek. When the development was created in the early 1970's the water rights were passed to the association for irrigation of the common areas and for individual lot irrigation as desired by the lot owner. Transfer #4713 was filed in June 1995 by the ICROA to change the place of use to reflect the irrigation practice at that time. The transfer was approved in 1996 which created 37-296B leaving a portion of this right unclaimed. At this time, ICROA has submitted an SRBA claim to claim the acres and additional flow associated with this right.

The original claim by ICROA for WR# 37-296B was filed for a diversion rate of 4.01 cfs on a place of use of 200 acres. This claim was the basis for the transfer in 1995. However, as part of the review for this transfer, Steve Clelland of IDWR completed a beneficial use exam of the water under this right and made the determination at that time (1996) that a total of 35.0 acres were being irrigated. His recommendation of 35.0 acres and a diversion rate of 2.72 cfs were recommended and approved as part of the transfer. This reflects the current structure of the water right and claim under 37-296B.

Historical analysis of aerial photographs of this ranch area indicate a much larger amount of irrigation was occurring in the 5 year period prior to 1988. An analysis completed by our office indicate that a total of 111.2 acres were irrigated and cultivated in 1984 as shown in the supporting exhibits. In his report to IDWR in 1996, Mr. Clelland had also done a historical photo analysis of the ranch and calculated a total of 89.8 acres of irrigation in 1984 based on the 1984 ASCS Aerial Photo. The SRBA court has held that the forfeiture statute is tolled at the filing of an SRBA claim. As such, the remaining acres under 37-296B not dealt with in the transfer, are still valid until a partial decree is made. ICROA has submitted an adjudication claim for the amount of 1.29 cfs ($4.01 \text{ cfs} - 2.72 \text{ cfs} = 1.29 \text{ cfs}$) for a place of use equal to 76.2 acres ($111.2 \text{ ac} - 35 \text{ ac} = 76.2 \text{ ac}$). This would reflect the historical beneficial use of the water prior to the filing of the claim in 1988. Based on the tolling of the forfeiture statute, this should be the amount recommended in the adjudication and is the amount used in the proposed transfer.

The proposed transfer creates a permissible place of use which encompasses the majority of land adjacent to the creek which could likely be irrigated at some time by ICROA or its individual members. The PPU area is 407 acres but the water rights would be limited to a total of 111.2 acres of irrigation within this PPU. A total of 18 points of diversion are requested in this transfer which reflects the POD's for individual lot owners with pumps in the creek and POD's for the association to irrigate the common areas.

No change in the nature of use of the water right is proposed and no expansion of the original acres are proposed. The diversion rate of the combined rights (4.01 cfs) is based on a measurement of the creek made by Reid Newby who was the District 37 watermaster. Reid measured the creek at 6.63 cfs. The claim was based on the full flow of the creek minus the amount claimed by the City of Hailey (2.62 cfs).

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Indian Creek Ranch Owners Association - c/o Dennis Kavanagh, hereby nominate and appoint Brockway Engineering - Jeffrey S. Rau as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right transfers before the Idaho Department of Water Resources for the following water right transactions:

Water Right Claim - Companion claim to 37-296B

Water Right Transfer - 37-296B & New Claim (# TBD)

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications, and transfers above-mentioned. Further, I hereby declare that each and every application, transfer, agreement, receipt, or payment which shall be by my said agent given, made or done for the aforesaid purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by me in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will become void upon approval, denial or withdrawal of the above referenced applications.

Dated this 13 day of Sept 2004.

Dennis Kavanagh
Signature

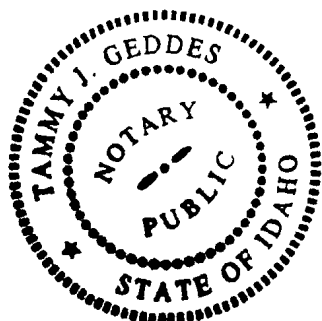
Signature

State of Idaho)
County of Blaine) ss.

On this 13 Day of September, 2004, before me, a Notary Public in and for said County and State, personally appeared Dennis KAVANAGH, known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

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

S
E
A
L



Tammy J. Geddes
Notary Public
In and for said State and County

6-6-07
My Commission Expires