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OCT 14 2009

DEPARTMENT OF
WATER RESOURCES

Attorneys for Applicants Jerry L. Tlucek
and Mary Lou Tlucek

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BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 73901, IN THE NAME OF
JERRY L. AND MARY LOU TLUCEK

PRE-HEARING MEMORANDUM AND
EXHIBIT LIST

The Applicants in this matter, Jerry L. Tlucek and Mary Lou Tlucek, through undersigned counsel of record, hereby file this pre-hearing memorandum and exhibit list, pursuant to IDWR's Rules of Procedure 529, 564, 601, and 606, in preparation for the hearing scheduled for October 14 and 15, 2009. There is a history to this transfer application, and the following explanation of the context of the application is provided for the convenience of the Hearing Officer. The exhibit list follows that explanation. *As an initial matter, the Applicants hereby request that IDWR employee John Westra be available to testify at the hearing as he is familiar with the history of this matter.*

I.
PRE-HEARING MEMORANDUM

Pursuant to IDWR Rule of Procedure 564, the Applicants in this matter hereby request the Hearing Officer to consider the following discussion of this transfer application.

A. History Of The Water Right And Application

This transfer application involves only one water right, 63-32184. (Ex. T.) This right resulted from a split of water right 63-7068, when the Applicants purchased real property from the Crams in June 2005. (Ex. F.) The other right resulting from that split, 63-32183, was retained by the Crams. (Ex. L.)

Less than three months after the Applicants purchased the subject property, the Protestants in this matter (Al and Martha Worman) filed a complaint letter with IDWR. (Ex. H.) The result of that complaint letter was a Consent Order and Agreement entered into by the Applicants and IDWR on February 7, 2006. (Ex. N.) That Consent Order required the Applicants to:

- Provide IDWR with documentation showing irrigated lands above the canal have been annexed into the boundaries of the Boise-Kuna Irrigation District;
- Install a measuring device on the diversion works for 63-32184;
- Limit groundwater irrigation under 63-32184 to 53.2 acres at a flow not to exceed 1.06 cfs, in accordance with the terms of the right;
- File a transfer application with IDWR for 63-32184 authorizing 53.2 acres of irrigation within a permissible place of use; and
- Pay a civil penalty of \$3,500.

(Ex. N, p. 3.)

The Applicants filed the original transfer application and provided additional documentation to IDWR required by the Consent Order on March 15, 2006. (Exs. O, P.) A letter from IDWR dated March 23, 2006, confirms that the Applicants had satisfied all of the conditions of the Consent Order, and that the only remaining item was the approval of the transfer application. (Ex. Q.)

The Applicants amended the application on July 18, 2006, simply reducing the size of the requested permissible place of use. (Ex. T.) However, on April 11, 2006, IDWR issued a letter stating that the processing of the application would be delayed due to proceedings in the SRBA. (Ex. R.)

After more than a two-year hiatus, activity on the application resumed, with IDWR's issuance of a letter to the Protestants advising them of the application and their potential interest in it. (Ex. V.) Notice of the application was published on October 16 and 23, 2008, (Ex. W), and the Protestants filed their notice of protest on October 27, 2008. (Ex. X.)

B. Discussion Of The Application And Protest

IDWR reviews a transfer application under the following criteria:

1. Whether the change would injure existing water rights;
2. Whether the change constitutes an enlargement of the original right;
3. Whether the change is consistent with the conservation of water resources within the state of Idaho;
4. Whether the change is in the local public interest in the water resource, as defined by Idaho Code Section 42-202B;
5. Whether the change will adversely affect the local economy, if the change involves using the water outside of its originating basin; and

6. Whether the new use is a beneficial use.

IDAHO CODE § 42-222(1).

The protest filed by the Protestants states that, “[o]n August 15, 2005, [their] domestic well went dry,” and that, “[w]e feel the cause of our well going dry was directly related to Mr. Tlucek pumping.” (Ex. X.) The protest goes on to state that, “[i]t appears Mr. Tlucek has been using his water right inappropriately and has been in violation for three years,” and that, “Mr. Tlucek has been expanding his acreage above the canal.” (Ex. X.) Therefore, the Protestants raise issues only as to the injury and enlargement criteria.

With respect to the injury analysis, it is important to emphasize that the appropriate question is only whether the *change* proposed by a transfer application would injure existing water rights. IDAHO CODE § 42-222(1). Here, the application filed by the Applicants does not involve a change in the nature of use, the point of diversion, or the season of use. (Ex. T.) It simply seeks to document a change in the place of use, still limited to a diversion rate of 1.06 cfs and to an annual diversion volume of 239.4 AFY, in accordance with the terms of the water right partial decree. (Exs. T, U.)

With respect to the enlargement analysis, again, the Applicants would still be limited to a diversion rate of 1.06 cfs and to an annual diversion volume of 239.4 AFY. It is also important to note that the Applicants have 174.96 acres within the Boise-Kuna Irrigation District. (Exs. N, S.) While the Protestants are concerned about the Applicants “expanding” their acreage, IDWR specifically required the Applicants to submit a transfer application with a permissible place of use. (Ex. N, p. 3.) And, the Applicants even amended the transfer application in order to reduce the size of the permissible place of use. (Exs. P, T.) The diversion

rate of 1.06 cfs, the annual diversion volume of 239.4 AFY, the season of use, and the nature of use will all remain the same.

These same factors also effectively resolve the untested criteria. In other words, because the only change proposed by the application is to accurately describe the place of use, the change is consistent with the conservation with water resources, the change is in the local public interest in the water resource, the change does not involve a trans-basin diversion and will not adverse the local economy, and the continued irrigation use is a beneficial use.

II. EXHIBIT LIST

According to IDWR Rule of Procedure 529, IDWR assigns exhibit numbers to each party. Because IDWR has not yet assigned exhibit numbers in this matter, the Applicants have simply labeled the exhibits alphabetically. The Applicants hereby request IDWR to designate the following attached documents as exhibits in this matter in accordance with Rules of Procedure 529, 601, and 606, using either the exhibit designations below or such other designations as IDWR deems appropriate.

The following exhibits, most of which are referenced above, will prove helpful for the upcoming hearing:

- A. Original license for water right 63-7068 (Feb. 5, 1974)
- B. SRBA Notice of Claim for water right 63-7068 (Aug. 22, 1989)
- C. SRBA Notice of Claim for water right 63-32183
- D. SRBA Notice of Claim for water right 63-32184
- E. Well driller's reports for Worman well
- F. Warranty deed between Cram and Tlucek (June 6, 2005)
- G. Notice of Change in Ownership filed by Tlucek (July 15, 2005)

- H. Complaint letter filed by Al Worman and Martha Worman
(Aug. 11, 2005)
- I. Letter from IDWR regarding Notice of Change in Ownership
(Oct. 13, 2005)
- J. SRBA aerial imagery regarding 63-32184 prepared by IDWR
(Nov. 21, 2005)
- K. SRBA Preliminary Director's Report recommendation for water
right 63-7068
- L. SRBA Director's Report recommendation for water right 63-32183
(Dec. 12, 2005)
- M. SRBA Director's Report recommendation for water right 63-32184
(Dec. 12, 2005)
- N. Consent Order and Agreement (Feb. 7, 2006)
- O. Letter from Campbell to Westra enclosing items pursuant to Consent
Order (March 15, 2006)
- P. Letter from Campbell to IDWR with Application for Transfer 73901 filed
by Tlucek (March 15, 2006)
- Q. Letter from IDWR acknowledging compliance with consent order
(March 23, 2006)
- R. Letter from IDWR regarding processing delay (April 11, 2006)
- S. Resolution and Order by the Board of Directors for Annexation of Lands
to Boise-Kuna Irrigation District, Recorded Instrument No. 106076988 (May 12, 2006)

T. Letter from Hudak to Lester at IDWR and Amended Application for Transfer (July 18, 2006)

U. SRBA Partial Decree for water right 63-32184 (Jan. 5, 2007)

V. Letter from IDWR to Worman regarding transfer application (Oct. 9, 2008)

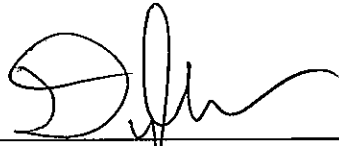
W. Affidavit of publication on Oct. 16 and 23, 2008

X. Protest filed by Worman (Oct. 27, 2008)

Y. Prehearing Conference Notes (April 21, 2009)

DATED this 9th day of October, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Jerry L. Tlucek and
Mary Lou Tlucek

CERTIFICATE OF SERVICE

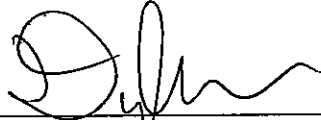
I HEREBY CERTIFY that on this 9th day of October, 2009, I caused a true and correct copy of the foregoing **PRE-HEARING MEMORANDUM AND EXHIBIT LIST** to be served by the method indicated below, and addressed to the following:

Al and Martha Worman
6884 West Warren Spur Rd.
Melba, ID 83641

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Dylan B. Lawrence

EXHIBIT A

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

State of Idaho
Department of Water Administration

WATER RIGHT LICENSE

License of Water Right No. 63-7068 Priority Feb. 21, 1968 Amount 1.42 cfs

THIS IS TO CERTIFY, that JOHN C. CRAM
of Melba, Idaho, has complied with the terms and conditions of Permit
No. 63-7068 issued pursuant to Application for Permit dated February 21, 1968,
and has submitted proof to the Department of Water Administration on March 6, 1973,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.52 cfs of water from a ground water source
tributary to _____, and that the permit holder has applied to a beneficial use &
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Stockwater	from <u>April 1</u> to <u>Oct. 31</u>	at <u>0.02</u> cfs and	<u>0.3 acre feet</u>
Irrigation	from <u>April 1</u> to <u>Oct. 31</u>	at <u>1.40</u> cfs and	<u>315 acre feet or</u>
	from _____ to _____	at _____ cfs and	<u>4.5 af per acre</u>
(both dates inclusive)			

Subject, however, to the condition that no more than 1.42 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
315.3 acre feet per year, said waters to be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 19,
Twp. 1 S, Rge. 1 W, B.M. in the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
1 S	1 W	18																15	15
		19	40	15															55
Stockwater Use:																			
1 S	1 W	18																X	

Total number of acres irrigated 70

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 5 day of
February, 19 74.



Director 

63 7068

EXHIBIT B

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-07068
Date Received: 8/22/1989
Receipt No: W004829
Received By: JW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MICHEAL CRAM 208-495-2643
Address: 18058 S. ROBINSON RD.
MELBA, ID 83641

OR

Name: NANCY ANN CRAM 208-495-2643
Address: 18058 S. ROBINSON RD.
MELBA, ID 83641

2. Date of Priority: FEB 21, 1968

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	01W	19	NE	NE			ADA

5. Description of diverting works:
WELL, 16" DIA. 388' DEEP; BOWLS @ 300FT. WHEELLINE SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	1.400		315.00
STOCKWATER	01/01	12/31	0.020		0.30

7. Total Quantity Appropriated is:
1.420 C.F.S. (and/or) 315.30 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER; .02 CFS

A63-07068

Page 1

Date: 08/22/89



MICROFILMED
AUG 21 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	01W	18	SW	SE		IRR	15.0
			SE	SE		STOCK	
			Section Acres				15.0
		19	NE	NE		IRR	40.0
			NW	NE		IRR	15.0
			SE	NE		IRR	5.0
			Section Acres				60.0
		20	NW	NW		IRR	5.0
			SW	NW		IRR	20.0
			Section Acres				25.0
			Total Acres				100.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
BOISE- KUNA IRRIGATION DIST

14. Remarks:

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Mutual B. Cramer Date: 8-22-89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 22 day

of August 19 89

Lori Harrison
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 12-8-94

EXHIBIT C

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-32183
Date Received: 8/22/1989
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

NANCY ANN CRAM Phone: (208)495-2643
18058 S ROBINSON RD
MELBA ID USA 83641

MICHAEL CRAM Phone: (208)495-2643
18058 S ROBINSON RD
MELBA ID USA 83641

2. Date of Priority: 02/21/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01S	01W	19	NE NE	ADA	

5. Description of diverting works:

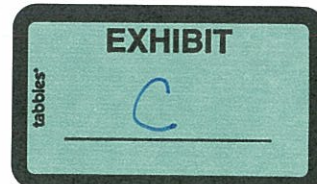
WELL, 16" DIA. 388' DEEP; BOWLS @ 300FT. WHEELLINE SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.34	75.6
STOCKWATER	01/01	12/31	0.02	0.3

7. Total Quantity Appropriated is:
0.36 C.F.S. and/or 75.9 A.F.A.

8. Total consumptive use:



9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
01S	01W	18	SW	SE	IRRIGATION	5.8
					Section Acres	5.8
01S	01W	19	NW	NE	IRRIGATION	11
					Section Acres	11
					Total Acres	16.8

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

Use of water under this right is subject to control by the watermaster of State Water District No. &DISTRICT.

This right is a split from former right 63-7068 .

15. Basis of Claim: License

EXHIBIT D

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-32184
Date Received: 8/22/1989
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

JERRY L TLUCEK Phone: (208)495-2550
15188 S CAN-ADA RD
MELBA ID USA 83641

2. Date of Priority: 02/21/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01S	01W	19	NE NE	ADA	

5. Description of diverting works:

WELL, 16" DIA. 388' DEEP; BOWLS @ 300FT. WHEELLINE SYSTEM

6. Water is used for the following purposes:

Purpose	From To	C.F.S.	(or) A.F.A
IRRIGATION	04/01 10/31	1.06	239.4

7. Total Quantity Appropriated is:

1.06 C.F.S. and/or 239.4 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:



Township	Range	Section	1/4 of 1/4	Lot	Use	Acres		
01S	01W	19	NE	NE	IRRIGATION	21.7		
			SE	NE	IRRIGATION	0.5		
			Section Acres					22.2
01S	01W	20	SW	NW	IRRIGATION	21		
			NW	NW	IRRIGATION	10		
			Section Acres					31
			Total Acres					53.2

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

Use of water under this right is subject to control by the watermaster of State Water District No. &DISTRICT.

This right is a split from former right 63-7068 .

15. Basis of Claim: License

EXHIBIT E

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

IDAHO DEPARTMENT OF WATER RESOURCES WELL DRILLER'S REPORT

167335

Office Use Only			
Inspected by			
Twp	Rge	Sec	
1/4	1/4	1/4	
Lat	Long		

1. WELL TAG NO. D0015767

DRILLING PERMIT NO. _____

Other IDWR No. _____

2. OWNER:

Name MARTY WORMAN

Address 18364 S CAN-ADA

City MELBA

State ID Zip 83641

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.

N		Twp. <u>1</u>		North ☐	or	South ☒
W		Rge. <u>1</u>		East ☐	or	West ☒
E		Sec. <u>18</u>		1/4 SE 1/4 SE 1/4		
S		Gov't Lot _____		County <u>ADA</u>		
		Lat: _____		Long: _____		

Address of Well Site WARREN SPUR/ JUST EAST

OF ROBINSON

(Give at least name of road + Distance to Road or Landmark)

Lt. _____ Blk. _____ Sub. Name _____

4. USE:

☒ Domestic ☐ Municipal ☐ Monitor- ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK: check all that apply

(Replacement etc.)

☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD:

☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES:

Seal/Filter Pack			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
BENTONITE	0	18	400#	POUR

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 256

Was drive shoe seal tested? ☒ Y ☐ N How? AIR

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6	+2	256	250	STEEL	☒	☐	☒	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS:

☐ Perforations
☐ Screens

Method _____

Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

108 ft. below ground

Artesian pressure _____ lb.

Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:

☐ Pump ☐ Bailor ☒ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
30	10	300	2 HR

Water Temp. _____

Bottom hole temp. _____

Water Quality test or comments: _____

Depth first Water Encounter _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water
8	0	3	TOP SOIL	
	3	80	SANDY CLAY/ SOME CINDERS	
6	80	120	SANDY CLAY/ CINDERS	
	120	220	LAYERS SAND/ CLAY	X
	220	250	SAND	X
	250	252	BROWN CLAY	
	252	280	BLUE CLAY	
	280	320	BLUE CLAY/ SHALE	X

RECEIVED

NOV-30-2000

Department of Water Resources

RECEIVED

NOV 22 2000

WATER RESOURCES
WESTERN REGION

Completed Depth 320

(Measurable)

Date: Started 11/1/2000

Completed 11/2/2000

13. DRILLER'S CERTIFICATION:

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name DAVIS WELL & PUMP

Firm No. 101

Firm Official

Chuck Davis

Date 11/15/00

and

Driller or Operator

Date 11/15/00

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

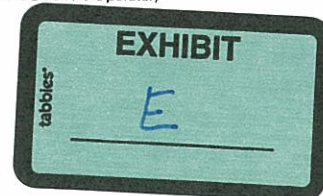


EXHIBIT F

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

WARRANTY DEED

FOR VALUE RECEIVED JERRY D. ELLIS, as Trustee of the Nancy A. Cram Trust u/t/a dated April 20, 2005, SARAH CRAM, an unmarried person as her separate property, CYBIL CRAM, an unmarried person as her separate property, all of their interest in the property attached hereto

the Grantors, do hereby grant, bargain, sell and convey unto JERRY L. TLUCEK and MARY LOU : TLUCEK, husband and wife

the Grantees, whose address is 15188 SO. CAN ADA RD., MELBA, ID 83641

the following described premises, to-wit:

SEE ATTACHED LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE:

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 2005 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: June 6, 2005

THE NANCY A. CRAM TRUST u/t/a dated April 20, 2005

BY: Jerry D. Ellis, Trustee
JERRY D. ELLIS, TRUSTEE

Sarah Cram
SARAH CRAM

Cybil A. Cram
CYBIL CRAM

STATE OF IDAHO
COUNTY OF CANYON

On this _____ day of JUNE, 2005, before me, a notary public, personally appeared JERRY D. ELLIS, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument as TRUSTEE of THE NANCY A. CRAM TRUST and acknowledged to me that they executed the same as such TRUSTEE.

Notary Public
Residing at Nampa, Idaho
My commission expires: 4/17/2009



63-7068

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 06/07/05 05:00 PM
DEPUTY Vicki Allen
RECORDED-REQUEST OF
Pioneer

AMOUNT 9.00

3

105073670

WARRANTY DEED

FOR VALUE RECEIVED JERRY D. ELLIS, as Trustee of the Nancy A. Cram Trust u/t/a dated April 20, 2005, SARAH CRAM, an unmarried person as her separate property, CYBIL CRAM, an unmarried person as her separate property, all of their interest in the property attached hereto

the Grantors, do hereby grant, bargain, sell and convey unto JERRY L. TLUCEK and MARY LOU TLUCEK, husband and wife

the Grantees, whose address is 15188 SO. CANADA RD., MELEA, ID 83641

the following described premises, to-wit:

SEE ATTACHED LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE:

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances, except for general taxes and assessments for the year 2005 and subsequent years, covenants, conditions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: June 6, 2005

THE NANCY A. CRAM TRUST u/t/a dated April 20, 2005

BY: *Jerry D. Ellis*
JERRY D. ELLIS, TRUSTEE

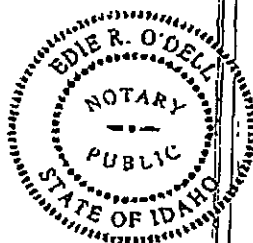
Sarah Cram
SARAH CRAM

Cybil A. Cram
CYBIL CRAM

STATE OF IDAHO
COUNTY OF CANYON

On this 6th day of JUNE, 2005, before me, a notary public, personally appeared JERRY D. ELLIS, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument as TRUSTEE of THE NANCY A. CRAM TRUST and acknowledged to me that they executed the same as such TRUSTEE.

Edie R. O'Dell
Notary Public
Residing at Nampa, Idaho
My commission expires: 4/17/2009



STATE OF IDAHO
COUNTY OF CANYON

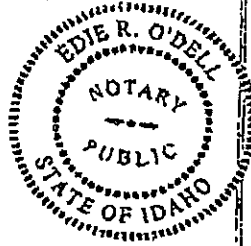
On this 6th day of JUNE, 2005, before me, a notary public,
personally appeared SARAH CRAM AND CYBIL CRAM, known
or identified to me to be the person(s) who(se) name(s) is/are
subscribed to the within instrument and acknowledged to me that
he/she/they executed the same.

Edie R. O'Dell

Notary Public

Residing at

My commission expires:



Residing in Nampa, Idaho

My Commission Expires 4/17/09

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605



PARCEL 1A

The Northeast quarter of the Northeast quarter of Section 19, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

PARCEL 1B

The Southeast quarter of the Northeast quarter of Section 19, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

PARCEL 2

The Northeast quarter of the Northwest quarter of Section 20, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

PARCEL 3

The Northwest quarter of the Northwest quarter of Section 20, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

PARCEL 4

The Southeast quarter of the Northwest quarter of Section 20, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

PARCEL 5

The Southwest quarter of the Northwest quarter of Section 20, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

EXCEPTING THEREFROM one half acre, more or less, in the Southeast corner of said Southwest quarter of the Northwest quarter in Section 20, bounded on the North by the Wall (Vogel) Canal and on the West by the ditch of John C. Cram and Leola May Cram, husband and wife, the grantees in Deed recorded August 30, 1950 in Book 351 of Deeds at page 273, Instrument No. 306992, records of Ada County, Idaho.

3539

ALTA Commitment Form

Schedule A page 2 of 2 page(s)

18

17

PARCEL 1A

PARCEL 3

PARCEL 2

NNE

NWNW

NENW

PARCEL 1B

SENE

SWNW

SENW

PARCEL 4

19

PARCEL 5

20

EXCEPTION

30

20

EXHIBIT G

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

JUL 15 2005

WATER RESOURCES
WESTERN REGION

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
63-07068	63-07068				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Michael and Nancy Ann Cram
18058 S. Robinson Road, Melba, Idaho 83642
4. New Owner/Claimant(s) Jerry Tlucek
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 15188 South Can-Ada Road
 City, State and ZIP Code Melba, Idaho 83641
 New Telephone Number (208) 495-2034
5. Date you acquired the property 6/7/05

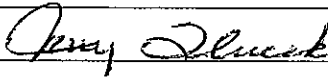


BOI_MT1:586520.1

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

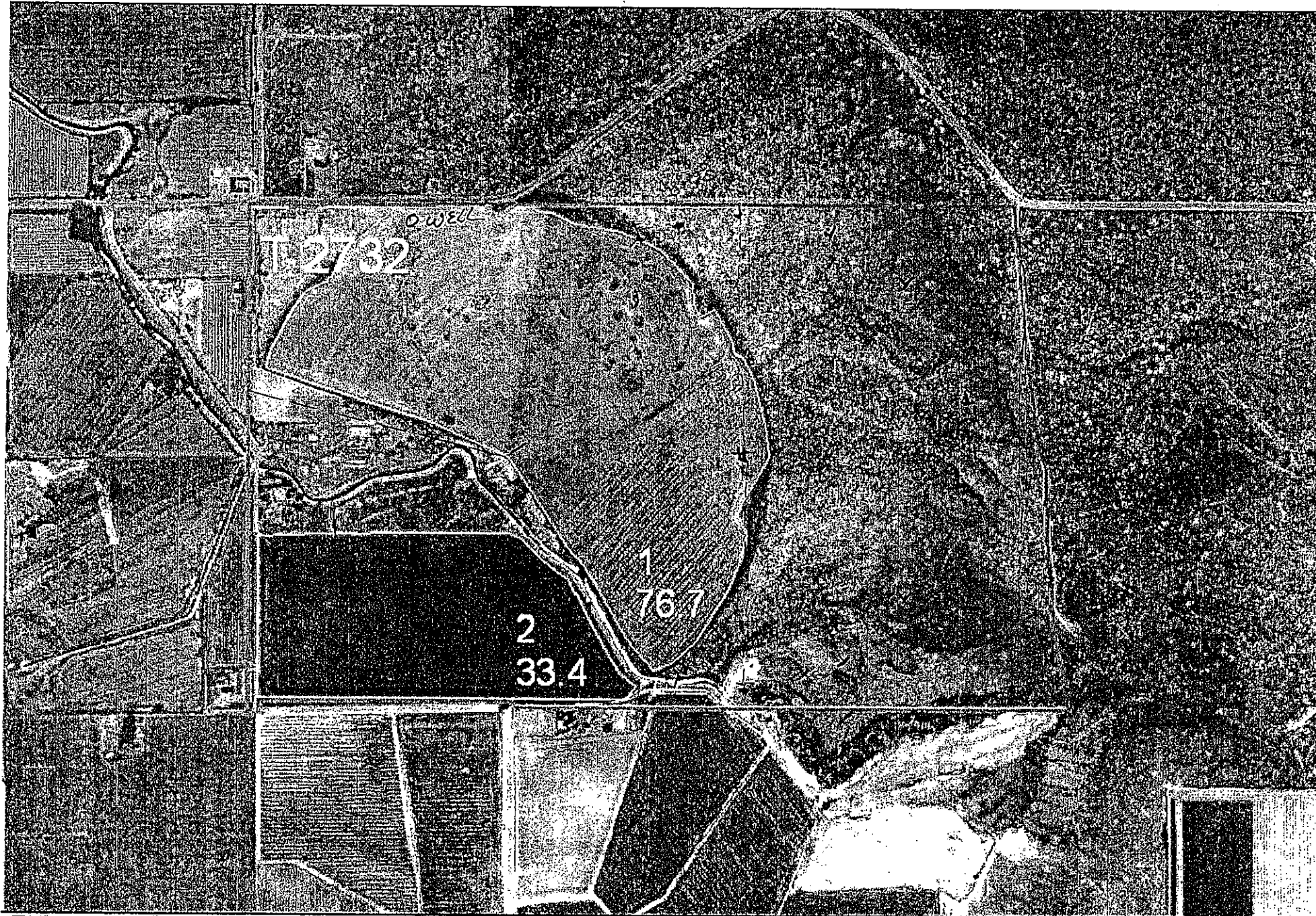
DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) 
(include title if applicable) Jerry Tlucek

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____



T2732 ADA CO FSA OFFICE
132 SW 5TH AVE
MERIDIAN, ID 83642
208-888-1890

0.07 0 0.07 0.14 0.21 0.28 Miles



Map Printed: Mar 17, 2005

WARRANTY DEED

FOR VALUE RECEIVED JERRY D. ELLIS, as Trustee of the Nancy A. Cram Trust u/t/a dated April 20, 2005, SARAH CRAM, an unmarried person as her separate property, CYBIL CRAM, an unmarried person as her separate property, all of their interest in the property attached hereto

the Grantors, do hereby grant, bargain, sell and convey unto JERRY L. TLUCEK and MARY LOU : TLUCEK, husband and wife

the Grantees, whose address is 15188 SO. CAN ADA RD., MELBA, ID 83641

the following described premises, to-wit:

SEE ATTACHED LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE:

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 2005 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: June 6, 2005

THE NANCY A. CRAM TRUST u/t/a dated April 20, 2005

BY: Jerry D. Ellis, Trustee
JERRY D. ELLIS, TRUSTEE

Sarah Cram
SARAH CRAM

Cybil A. Cram
CYBIL CRAM

STATE OF IDAHO
COUNTY OF CANYON

On this _____ day of JUNE, 2005, before me, a notary public, personally appeared JERRY D. ELLIS, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument as TRUSTEE of THE NANCY A. CRAM TRUST and acknowledged to me that they executed the same as such TRUSTEE.

Notary Public
Residing at Nampa, Idaho
My commission expires: 4/17/2009

EXHIBIT H

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Al & Martha Worman
6884 W Warren Spur Rd
Melba ID 83641
495-2936

RECEIVED

15 IW 18 ~~SESE~~ AUG 15 2005

SESE

WATER RESOURCES
WESTERN REGION

August 11, 2005

JOHN WESTRA
2735 AIRPORT WAY
BOISE ID 83705

15188 Can-Ader Rd.

Dear Mr. Westra:

15 IW 30 SE SE

We have recently experienced a severe drop of the water level in our domestic well. We have concerns that our new neighbor Jerry Tlucek of Snake River Farms may be over pumping and exceeding his water rights on the property that was formerly Cram Dairy.

Sincerely,

Al Worman

Al Worman

Martha Worman

Martha Worman



EXHIBIT I

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

October 13, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Jerry Tlucek
15188 S. Can-Ada Rd
Melba, ID 83641

Re: Original Notice of Claim to a Water Right No. 63-7068

Renumbered Notice of Claim to a Water Right No. 63-32184

Dear Claimant(s):

We have received and processed a Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim represents a split of the claim filed by a previous owner during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

Thank you for your patience, as we have had several water right changes to process. Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Adjudication Section
Western Region

LG: lg

Enclosure

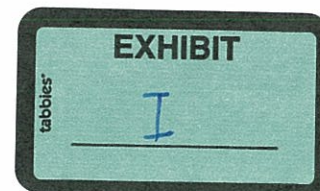


EXHIBIT J

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Idaho Department of Water Resources

**T01S, R01W,
S19 & S20**

Claim No: 63-32184

Prepared By: Kimberly Brown

Date: November 21, 2005



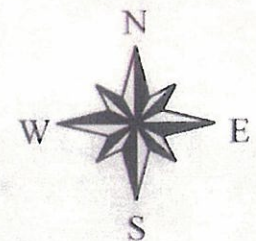
 Place of Use

 Section Lines

 1/4 1/4

 Point of Diversion

Acres Irrigated = 53.2



1987 NAPP

EXHIBIT K

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

11/22/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7068
NAME AND ADDRESS: MICHEAL CRAM
18058 S ROBINSON RD
MELBA ID 83641

NANCY ANN CRAM
18058 S ROBINSON RD
MELBA ID 83641

SOURCE: GROUND WATER
QUANTITY: 1.420 CFS
315.300 AFY
PRIORITY DATE: 02/21/1968
POINT OF DIVERSION:

T01S R01W S19 NENE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 10/31	1.400 CFS 315.00 AFY
STOCKWATER	1/01 12/31	0.020 CFS 0.30 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31, UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

IRRIGATION Within ADA County

T01S R01W S18	SWSE	5.8	T01S R01W S19	NENE	21.7
T01S R01W S19	NWNE	11.0	T01S R01W S19	SENE	0.5
T01S R01W S20	NWNW	10.0	T01S R01W S20	SWNW	21.0

STOCKWATER Within ADA County

T01S R01W S18 SESE

70 ACRES TOTAL

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Use of this right is combined with water from Boise-Kuna Irrigation District.

STOCKWATER, 20 RANGE CATTLE.

Water Right 63-7068



EXHIBIT L

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

12/12/2005

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-32183
NAME AND ADDRESS: NANCY ANN CRAM
18058 S ROBINSON RD
MELBA ID 83641
MICHAEL CRAM
18058 S ROBINSON RD
MELBA ID 83641

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 0.360 CFS
75.90 AFY

PRIORITY DATE: 02/21/1968

POINT OF
DIVERSION: T01S R01W S19 NENE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	0.340 CFS 75.60 AFY
STOCKWATER	01/01 12/31	0.020 CFS 0.30 AFY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within ADA County
T01S R01W S18 SWSE 5.80 T01S R01W S19 NWNE 11.00
STOCKWATER Within ADA County
T01S R01W S18 SESE

16.8 ACRES TOTAL

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Stockwater use is for 20 range cattle.

This right is a split from former right 63-7068.

Use of this right is combined with water from Boise-Kuna Irrigation District.



EXHIBIT M

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

12/12/2005

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-32184
NAME AND ADDRESS: JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 1.060 CFS
239.40 AFY

PRIORITY DATE: 02/21/1968

POINT OF
DIVERSION: T01S R01W S19 NENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.060 CFS 239.40 AFY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within ADA County

T01S R01W S19	NENE	21.70	T01S R01W S19	SENE	0.50
T01S R01W S20	NWNW	10.00	T01S R01W S20	SWNW	21.00

53.2 ACRES TOTAL

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

This right is a split from former right 63-7068.

Use of this right is combined with water from Boise-Kuna Irrigation District.



EXHIBIT N

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

FEB 01 2006

WATER RESOURCES
WESTERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF CEASE &)
DESIST- ILLEGAL DIVERSION OF)
WATER FOR JERRY L. TLUCEK)

**CONSENT ORDER
AND AGREEMENT**

This matter having come before the Idaho Department of Water Resources (Department) as the result of a field investigation, Cease & Desist Order, and a subsequent compliance conference with Mr. Tlucek's Attorney Scott L. Campbell, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On August 15, 2005 the Department received a written complaint alleging illegal diversion of irrigation ground water with the point of diversion located in the NE1/4 of NE1/4, Section 19, Township 01S and Range 01W, owned by Mr. Tlucek.

2. A Department field investigation was completed October 10, 2005. A Verti-Line well pump was found on the well, matching the pump found during the license examination for water right # 63-7068. However, a US 75 hp motor had replaced the 60 hp Holloshaft motor documented by the prior license exam. Water from the well is diverted through an open discharge 8" buried mainline to a catch basin. Surface water from Boise-Kuna Irrigation District (BKID) is commingled with ground water in the basin, and relifted by 2 -25 hp pumps to a pivot.

3. Department Adjudication records show 70 acres of irrigation for the original Cram water right # 63-7068. The water right was then split based on Mr. Tlucek's purchase of a portion of the Cram property. Water right # 63-32184 now describes 53.2 irrigated acres owned by Mr. Tlucek, and # 63-32183 represents the 16.8 acres retained by the Crams.

4. Shape maps and/or records of # 63-32184 reveal ground water irrigation is authorized for 53.2 acres located north of the canal. However, irrigated lands north of the canal are not within the BKID boundaries.

5. Current BKID records document surface water irrigation is authorized within the district boundaries for 41.05 acres located south of the canal. Lands south of the canal are not authorized to be irrigated by ground water under # 63-32184.

6. Ground water from the well is commingled with BKID surface water deliveries to irrigate 86.7 acres above the canal and 38.4 acres below the canal. The additive acreage totals



125.1 acres. Therefore, ground water is being applied to 71.9 acres without ground water right authorization, (125.1 acres--53.2 acres = 71.9 acres).

7. On November 4, 2005, the Department issued Mr. Tlucek a Cease & Desist Order for unauthorized diversion of ground water.

8. A compliance conference was conducted on December 12, 2005. A tentative agreement was reached between the Department and Mr. Tlucek's Attorney, Scott L. Campbell.

9. Any conclusion of law later determined to be a finding of fact is hereby incorporated as a finding of fact in this order.

CONCLUSIONS OF LAW

1. IDAHO CODE § 42-351 states in part as follows:

(1) It is unlawful for any person to divert or use water from a natural watercourse or from a ground water source without having obtained a valid water right to do so, or to divert or use water not in conformance with a valid water right.

(3) Upon investigation of available information, the director of department of water resources shall have the discretion to issue a written notice of violation to the person in accordance with the provision of section 42-1701B, Idaho Code for the illegal diversion or use of water.

(4) Notwithstanding the issuance of a notice of violation, the director may also file an action seeking injunctive relief directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right.

2. IDAHO CODE § 42-1701B states in part as follows:

(2) Notice . . . the notice of violation shall identify the alleged violation and shall specify each provision of the designated chapter, rule, permit, condition of approval or order, which has been violated. The notice of violation shall state the remedy, including all restoration and mitigation measures, and the amount of any civil penalty the director seeks for redress of the violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director, or the director's designee in a compliance conference concerning the alleged violation.

(4) Compliance conference and consent order . . . If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty. The consent order shall be effective immediately upon signing by both parties and shall preclude a civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek

and obtain in any appropriate district court, specific performance of the consent order and other relief as authorized by law.

3. Mr. Tlucek was beneficially using ground water to irrigate lands not authorized by an existing water right as described in the FINDINGS OF FACT. Beneficial use of ground water without a valid water right is considered unlawful pursuant to Idaho Code § 42-351.

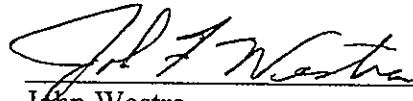
ORDER

Based on the foregoing FINDINGS OF FACT and pursuant to the authority of Title 42, Chapter 3 and 17 of the Idaho Code,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Mr. Tlucek shall provide the Department with documentation showing irrigated lands above the canal have been annexed into the boundaries of the BKID pursuant to IDAHO CODE § 43-1001 thru § 43-1011.
2. A measuring device shall be installed and permanently maintained as part of the ground water diverting works under water right # 63-32184. The device will display the diversion flow rate and a totalized volume.
3. Mr. Tlucek shall only use ground water to irrigated 53.2 acres at a 1.06 cfs flow rate as authorized by water right # 63-32184.
4. Mr. Tlucek shall file a transfer application with the Department authorizing 53.2 acres of irrigation in a permissible place of use under water right # 63-32184. A management plan will outline system modifications and resulting water management.
5. Mr. Tlucek shall pay an agreed civil penalty of Three Thousand Five Hundred dollars (\$3,500.00).
6. Further illegal beneficial use of water shall be subject to new civil penalties.
7. The violation shall remain in effect until the transfer application described in #4 has been approved.
8. This Consent Order and Agreement shall be effective immediately upon execution by both parties. The Department shall not pursue a civil enforcement action to remedy the violation contingent on Mr. Tlucek complying with order items #1, #2, #3, #4, #5 by **March 15, 2006**.

Dated this 7th day of February, 2006

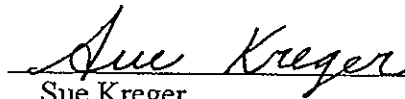

John Westra
IDWR Western Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th of February 2006, a true and correct copy of the foregoing document was served on the following as noted:

☒ U.S. Mail, Postage Repaid

Jerry L. Tlucek
C/O Scott L. Campbell
Moffat Thomas
101 S Capitol Bvd 10th Floor
PO Box 829
Boise, ID 83701 0829


Sue Kreger
Administrative Assistant

RECEIVED

FEB 01 2006

WATER RESOURCES
WESTERN REGION

COPY

CONSENT

I, Jerry L. Tlucek hereby acknowledge in general the facts set forth in the Consent Order and Agreement and accept fully the terms and conditions of the Order contained herein. I consent to the issuance of the Consent Order and Agreement and waive any right otherwise possessed to contest any provision of the Order. Upon compliance with Consent Order and Agreement, the Department agrees not to seek civil enforcement for the violation identified herein.

Signed this 24 day of January, 2006



Jerry L. Tlucek

EXHIBIT O

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

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John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
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Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaefer Kaufmann
Michael W. McGreaham
Paul D. McFarlane
Kimberly D. Evans Ross
Jon A. Stenquist

Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Metcalf
Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*
Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

March 15, 2006
via Hand Delivery

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

John Westra
Manager Western Region Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right 63-32184 in the Name of Jerry Tlucek
MTBR&F File No. 22377.1

Dear Mr. Westra:

Pursuant to the terms and conditions of the Consent Order dated February 7, 2006, I am providing you with the following information or documents on behalf of my client, Jerry Tlucek:

1. Item No. 1 under the Consent Order requires that Mr. Tlucek provide the Department with documentation showing irrigated lands above the canal have been annexed into the boundaries of the Boise-Kuna Irrigation District. Enclosed please find a copy of a letter with enclosures from Boise-Kuna Irrigation District to you dated March 7, 2006, advising of Mr. Tlucek's request for annexation, approval of the annexation request at the January 3, 2006 board meeting, and the annexation order will be signed following the expiration of 90 days per statute.
2. Item No. 2 under the Consent Order requires that Mr. Tlucek install a measuring device as part of the ground water diverting works under water right no. 63-32184. The measuring device has been ordered and will be installed upon receipt. Please see attachments to the Water Management Plan, also provided herewith, for the meter specifications.
3. Item No. 4 under the Consent Order requires that Mr. Tlucek file a transfer application with the Department authorizing 53.2 acres of irrigation in a permissible place of use under water right no. 63-32184. Enclosed please find a copy of the Application for Transfer of Water Right for water right no. 63-32184, which was filed today with the Department. In addition to the above, Item No. 4 required that Mr. Tlucek submit a management plan outlining the system modifications and resulting water management.



BOL_MT2:610229.1

John Westra
March 15, 2006
Page 2

Enclosed herewith please find a copy of the Water Management Plan prepared for Mr. Tlucek by ERO Resources.

4. Enclosed herewith please find a check in the amount of \$3,500 representing the agreed upon civil penalty.

Please let me know if you have any questions.

Very truly yours,



Scott L. Campbell

SLC/tmh

Enclosures

cc: Jerry Tlucek (w/encls.)

Moffatt Thomas**MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.**

P.O. Box 829

Boise, Idaho 83701

(208) 345-2000

WELLS FARGO BANK NORTHWEST, A.
BOISE, IDAHO
92-379 / 1241

CHECK NO.

181831NOT VALID UNLESS
NEGOTIATED WITHIN 90 DAYS

DATE

AMOUNT

03/15/2006

\$3,500.00

PAY THREE THOUSAND FIVE HUNDRED AND 00/100TO THE
ORDER
OFIdaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098
GENERAL ACCOUNT

MP

⑈ 181831 ⑈ ⑆ 124103799⑆ 0030084230 ⑈

Idaho Department of Water Resources
CHECK NO.: 181831**181831**

INVOICE NO:

DESCRIPTION:

VOUCHER:

AMOUNT:

22377.0001

settlement

209031

3,500.00

TO

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098**Moffatt Thomas Barrett Rock & Fields Chartered**
P.O. Box 829 • Boise, Idaho 83701
(208) 345-2000
Fax No.: (208) 385-5384

**JERRY TLUCEK - SNAKE RIVER FARMS
WATER MANAGEMENT PLAN
ADA COUNTY, IDAHO**

Prepared for—

Moffatt Thomas Barrett Rock & Fields, CHTD.
Scott Campbell, Esq.
101 South Capitol Boulevard
Boise, Idaho 83702

Prepared by—

ERO Resources Corporation
3314 Grace Street
Boise, Idaho 83713
(208) 373-7983

February 28, 2006



Introduction

This Water Management Plan has been prepared for Mr. Tlucek pursuant to the Consent Order and Agreement dated January 24, 2006. The Water Management Plan is for Mr. Tlucek's property located in the E½ of the NE¼ of Section 19 and the NW¼ of Section 20, Township 1 South, Range 1 West, Ada County. There is a total of 200 irrigated acres within this place of use, see Figure 1. Irrigation water delivery will continue as before with ground water commingled with surface water from the Boise-Kuna Irrigation District prior to application.

Boise-Kuna Irrigation District

As required by Paragraph 1 of the Consent Order and Agreement, additional lands have been annexed into the boundaries of the Boise-Kuna Irrigation District. Mr. Tlucek has obtained an additional 105.75 shares for a total of 146.8 shares of Boise-Kuna Irrigation District water. Documentation showing the annexation and total number of Boise-Kuna Irrigation District shares is provided in Appendix A.

Water Measurement

The point of diversion for WR# 63-32184 is an existing well located in the NW¼ NE¼ NE¼ of Section 19. As required by Paragraph 2 of the Consent Order and Agreement, a measuring device will be installed on the discharge section of the pump per Figure 2. The measuring device is a McCrometer MC propeller meter model ML100 that displays the diversion flow rate in gallons per minute and a totalized volume in acre feet. A description of the meter and display is included in Appendix B.

Transfer Application

Water right # 63-32184 authorizes a diversion of 1.06 cfs for the irrigation of 53.2 acres. As required by Paragraph 4 of the Consent Order and Agreement, a transfer application, Appendix C, has been prepared to change the place of use for this right to a permissible place of use including 240 acres in the E½ of the NE¼ of Section 19 and the NW¼ of Section 20, Township 1 South, Range 1 West, Ada County.

Water Delivery System

The point of delivery from the Boise-Kuna Irrigation District canal is located in the NW¼SE¼NE¼ of Section 19. Near this point of delivery there is a collection sump where ground water is commingled with surface water. Two pumps in parallel withdraw water from the collection sump and pressurize the irrigation systems. Water is applied to 200 acres within the permissible place of use through two center pivots and several hand lines.

Conclusion

In summary, all of the 200 irrigated acres have a full water supply, combined from the Boise-Kuna Irrigation District and from ground water. The rate and volume of ground water use will be continuously measured at the point of diversion. The surface water delivery will be controlled by the Boise-Kuna Irrigation District.

Jerry Tlucek - Snake River Farms T01S R01W Ada County



Permissible Place of Use:
240 acres within the
E1/2 of the NE1/4 Section 19
NW1/4 Section 20
Township 01S Range 01W

Existing Water Rights:
WR# 63- 32184 - 53.2 acres
BKIDistrict - 41.05 acres

New Water Rights:
BKIDistrict - 105.75 acres

 **200 Irrigated Acres**
 **240 Acres Permissible POU**

Prepared By: Paul E. Drury, P.E.
Date: February 28, 2006

Data Source: IDWR and NAIP

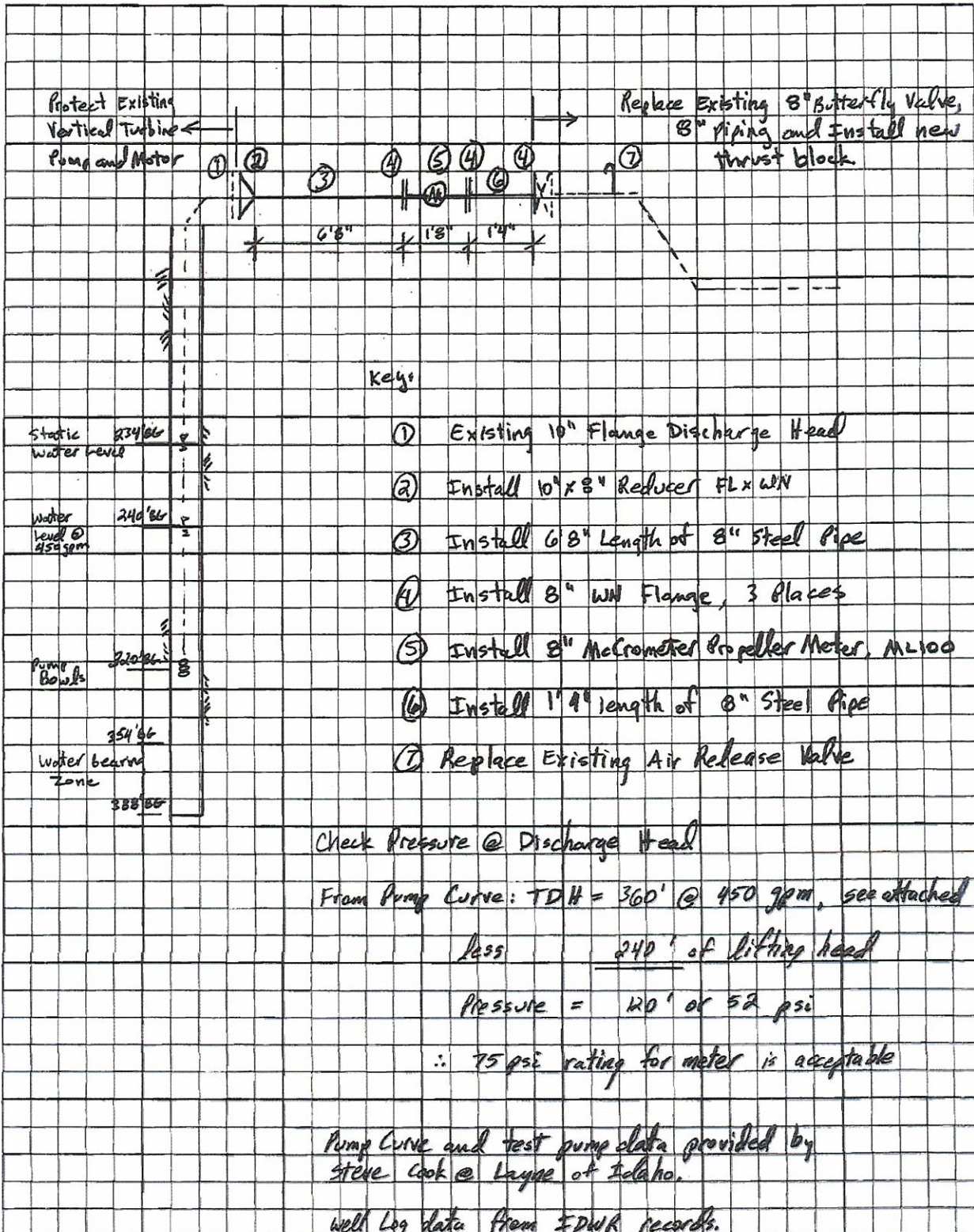


0.3 0 0.3 0.6 Miles

ERO Resources, Corp
Boise, Idaho

FIGURE 2

Meter Installation Detail



Company: Leyne of Idaho, Inc.
 Name:
 Date: 02/13/06



Pump:

Size: 10YC... (7 stages)

Type: Vert-Turbine

Synch speed: 1800 rpm

Curve: 3540

Specific Speeds:

Dimensions:

Vertical Turbine:

Speed: 1760 rpm

Dis: 8.25 in

Impeller:

Ns: 3880

Ns: 6866

Suction: 6 in

Discharge: 6 in

Bowl size: 9.5 in

Max lateral: 0.75 in

Thrust K factor: 10.3 lb/ft

Search Criteria:

Flow: 1000 US gpm

Head: 255 ft

Fluid:

Water

SG: 1

Viscosity: 1.105 cP

NPSHa: — ft

Temperature: 60 °F

Vapor pressure: 0.2563 psi a

Atm pressure: 14.7 psi a

Motor:

Standard: NEMA

Enclosure: TEFC

Size: 100 hp

Speed: 1800

Frame: 405T

Sizing criteria: Max Power on Design Curve

Pump Limits:

Temperature: 250 °F

Pressure: 405 psi g

Sphere size: 0.875 in

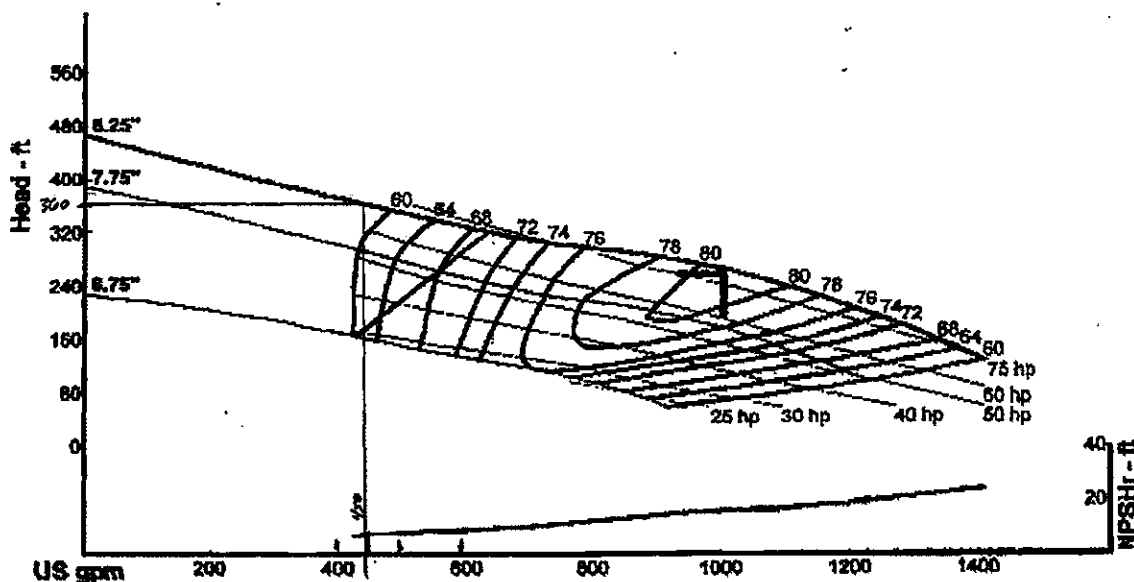
Power: 400 hp

Eye area: — in²

— Data Point —
 Flow: 1000 US gpm
 Head: 261 ft
 Eff: 80%
 Power: 81.8 hp
 NPSHr: 16.2 ft

— Design Curve —
 Shutoff Head: 462 ft
 Shutoff dP: 200 psi
 Min Flow: 630 US gpm
 BEP: 81% eff
 @ 1050 US gpm
 NOL Pwr: 82.3 hp
 @ 1150 US gpm

— Max Curve —
 Max Pwr: 82.3 hp
 @ 1150 US gpm



Performance Evaluation:

Flow US gpm	Speed rpm	Head ft	Pump %eff	Power hp	NPSHr ft
1200	1760	203	78	80.8	18.9
1000	1760	261	80	81.8	16.2
800	1760	292	76	77	12.4
600	1760	—	—	—	—
400	1760	—	—	—	—

APPENDIX A

Boise-Kuna Irrigation District Annexation

APPENDIX B

Meter Specification



CONFIGURATION SHEET

MODEL ML100

FLANGED IRRIGATION FLOWMETER

DESCRIPTION

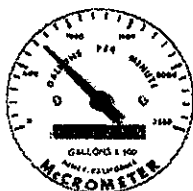
Model ML100 Irrigation Flowmeters are designed to provide accurate flow measurement at moderate pressure ratings in an inexpensive package. The impeller and drive assembly are removed and replaced through the open end of the meter tube. As with all McCrometer propeller flowmeters, standard features include magnetically coupled drive, instantaneous flowrate indicator and straight-reading, six-digit totalizer.

Impellers are manufactured of high-impact plastic, capable of retaining their shape and accuracy over the life of the meter. Each impeller is individually calibrated at the factory to accommodate the use of any standard McCrometer register. The ML100 can be field-serviced without the need for factory recalibration. Factory lubricated, stainless steel bearings are used to support the impeller shaft. The sealed bearing design limits the entry of materials and fluids into the bearing chamber providing maximum bearing protection.

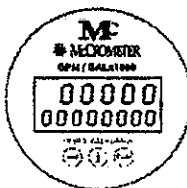
The instantaneous flowrate indicator is standard and available in gallons per minute, cubic feet per second, liters per second and other units. The register is driven by a flexible steel cable encased within a protective vinyl liner. The register housing protects both the register and cable drive system from moisture while allowing clear reading of the flowrate indicator and totalizer.

INSTALLATION

Standard installation is horizontal mount. If the meter is to be mounted in the vertical position, please advise the factory. A straight run of full pipe the length of ten pipe diameters ahead and two diameters behind the meter is the minimum normally recommended for meters without straightening vanes. Meters with straightening vanes require at least five pipe diameters ahead and two diameters behind the meter.



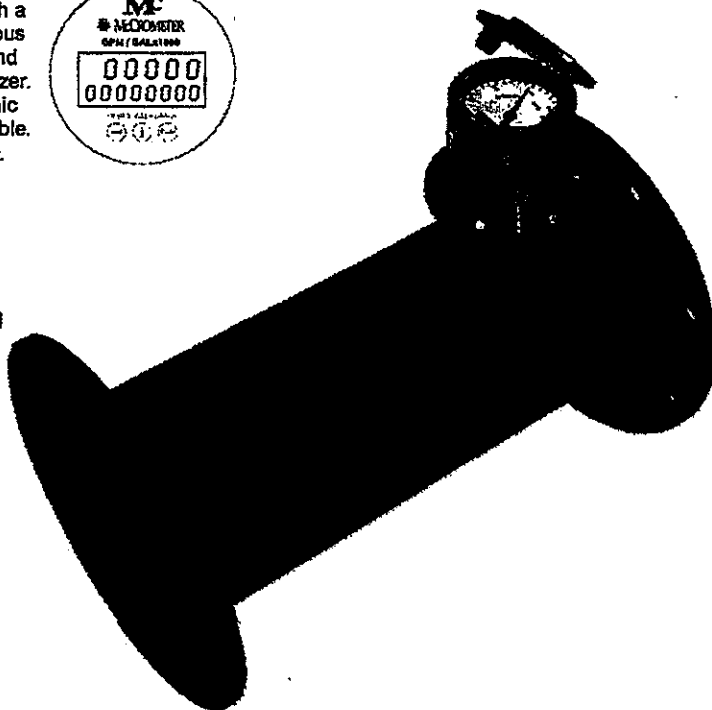
The McCrometer Propeller flowmeter comes with a standard instantaneous flowrate indicator and straight-reading totalizer. An optional electronic register is also available. Typical face plates.



APPLICATIONS

The McCrometer propeller is the most widely used flowmeter for agricultural and turf irrigation measurement. Typical applications include:

- Center pivot systems
- Sprinkler irrigation systems
- Golf course and park water management
- Drip irrigation systems
- Gravity turnouts from underground pipelines
- Commercial nurseries



LOW COST IRRIGATION FLOWMETER MODEL ML100

SPECIFICATIONS

PERFORMANCE

ACCURACY/REPEATABILITY: $\pm 2\%$ of reading guaranteed throughout full range. $\pm 1\%$ over reduced range. Repeatability 0.25% or better

RANGE: See dimensions chart below.

HEAD LOSS: See dimensions chart below

MAXIMUM TEMPERATURE: (Standard Construction) 160°F constant.

PRESSURE RATING: 75 psi

MATERIALS

TUBE: Epoxy-coated carbon steel pipe, conforming to ASA pipe standards. Lightweight irrigation flanges with 150 pound drilling

BEARING ASSEMBLY: Impeller shaft is 316 stainless steel. Ball bearings are 440C stainless steel.

MAGNETS: (Permanent type) Cast or sintered Alnico

BEARING HOUSING: Brass; Stainless Steel optional

REGISTER: An instantaneous flowrate indicator and six-digit straight-reading totalizer are standard. The

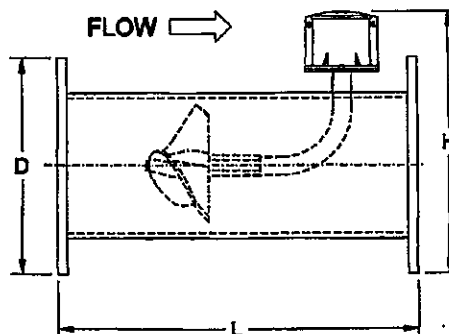
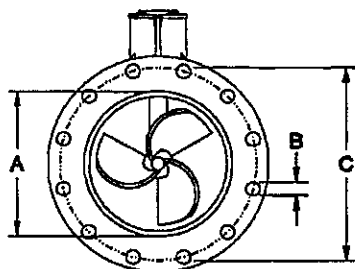
register is hermetically sealed within a die cast aluminum case. This protective housing includes a domed acrylic lens and hinged lens cover with locking hasp.

IMPELLER: Impellers are manufactured of high-impact plastic, retaining their shape and accuracy over the life of the meter. High temperature impeller is optional.

COATING: Fusion-bonded epoxy.

OPTIONS

- Forward/reverse flow measurement
- Register extensions
- Flow straightening vanes
- "Over Run" bearing assembly for higher than normal flowrates
- Electronic propeller meter available in all sizes of this model
- A complete line of flow recording/control instrumentation
- Certified calibration test results
- Stainless steel bearing housing



McCrometer reserves the right to change design or specifications without notice.

ML 100	DIMENSIONS			
Meter Size	6"	8"	10"	12"
Maximum Flow U.S. GPM	1200	1500	1800	2500
Minimum Flow U.S. GPM	90	100	125	150
Approx. Head Loss in Inches at Max. Flow	17.00	6.75	3.75	2.75
Approx. Shipping Weight, lbs.	50	61	104	125
A (Inches)	6	8	10	12
B (Inches)	7/8	7/8	1	1
C (Inches)	9 1/2	11 3/4	14 1/4	17
D (Inches)	11	13 1/2	16	19
H (Inches)	16 1/4	18 1/2	21 3/4	24 1/4
L (Inches)	20	20	20	20
No. of Bolts Per Flange	8	8	12	12

FOR MORE INFORMATION CONTACT:

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Lit#24S17-18 Rev 1.5/08-05



3255 West Stetson Avenue
Hemet CA 92545 USA
951-652-6811 / FAX 951-652-3078
Web Site: <http://www.mccrometer.com>

APPENDIX C

Transfer Application

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant Jerry L. Tlucek and Mary Lou Tlucek Phone (208) 495-2034
Post Office address 15188 South Can-Ada Road, Melba, Idaho 83641

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 _____

Applicant proposes to change the place of use to include an entire 240 acre parcel under the permissible place of use for this water right, as described herein.

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
- | Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|--------------|-----------|--------------------|---------------|----------------|
| 63-32184 | 2/21/1968 | 1.06 | Irrigation | 4/01 to 10/31 |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
2. Total amount of water being transferred 1.06 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water groundwater _____ tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	19	1S	1W	Ada	groundwater well

5. 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	
1S	1W	19	40			40													80
		20					40	40	40	40									160

PART 1**6. General Information:**

- a. Description of diversion system The system comprises of a groundwater well, 16" in diameter, 388' deep, with a
.75 hp pump. Water from the well is diverted through an open discharge 8" buried mainline to a catch basin.
Groundwater is then commingled with surface water provided by the Boise-Kuna Irrigation District in the catch
basin, then relifted by two (2) 25 hp pumps to a pivot.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X 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:

None

d. Remarks:

Water right 63-32184 is Applicants' portion of water right 63-7068, in the name of Michael and Nancy Cram, from which 63-32184 was split when Applicants purchased the subject property. 63-32183 represents the Crams' split portion of 63-7068.

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 _____

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

PART 2

(Attach one copy for each right)

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. 63-7068 issued by the Idaho Department of Water Resources.
 - c. Claim No. 63-7068, split to 63-32184 (Tlucek) and on file with the Idaho Department of Water Resources.
 - d. Transfer No. 63-32183 (Cram) 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 groundwater tributary to _____
4. Date or priority 2/21/1968
5. Water is used for the following purpose:
 amount 1.06 cfs for irrigation purposes from 4/01 to 10/31
 (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 1.06 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	19	1S	1W	Ada	groundwater well

8. 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	
1S	1W	19	21.7			.5													22.2
		20						10	21										31.0

Total acres 53.2

9. Describe any other water rights used for the same purpose as described above

PART 2

Transfer No. _____

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 n/a

(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) n/a

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 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number. Please see attached map**

BOL MT1.607150.1

SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE** n/a

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<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 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.

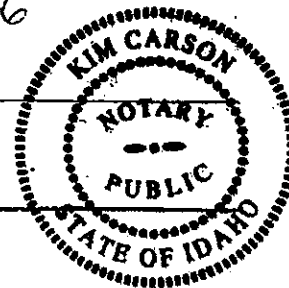
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Henry L. Sweet
(Signature of Applicant)

Subscribed and sworn to before me this 8th day of March, 2006

Kim Carson
(Notary Public)

My commission expires 6/13/11

**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Published in _____ Copies of protest forwarded by _____

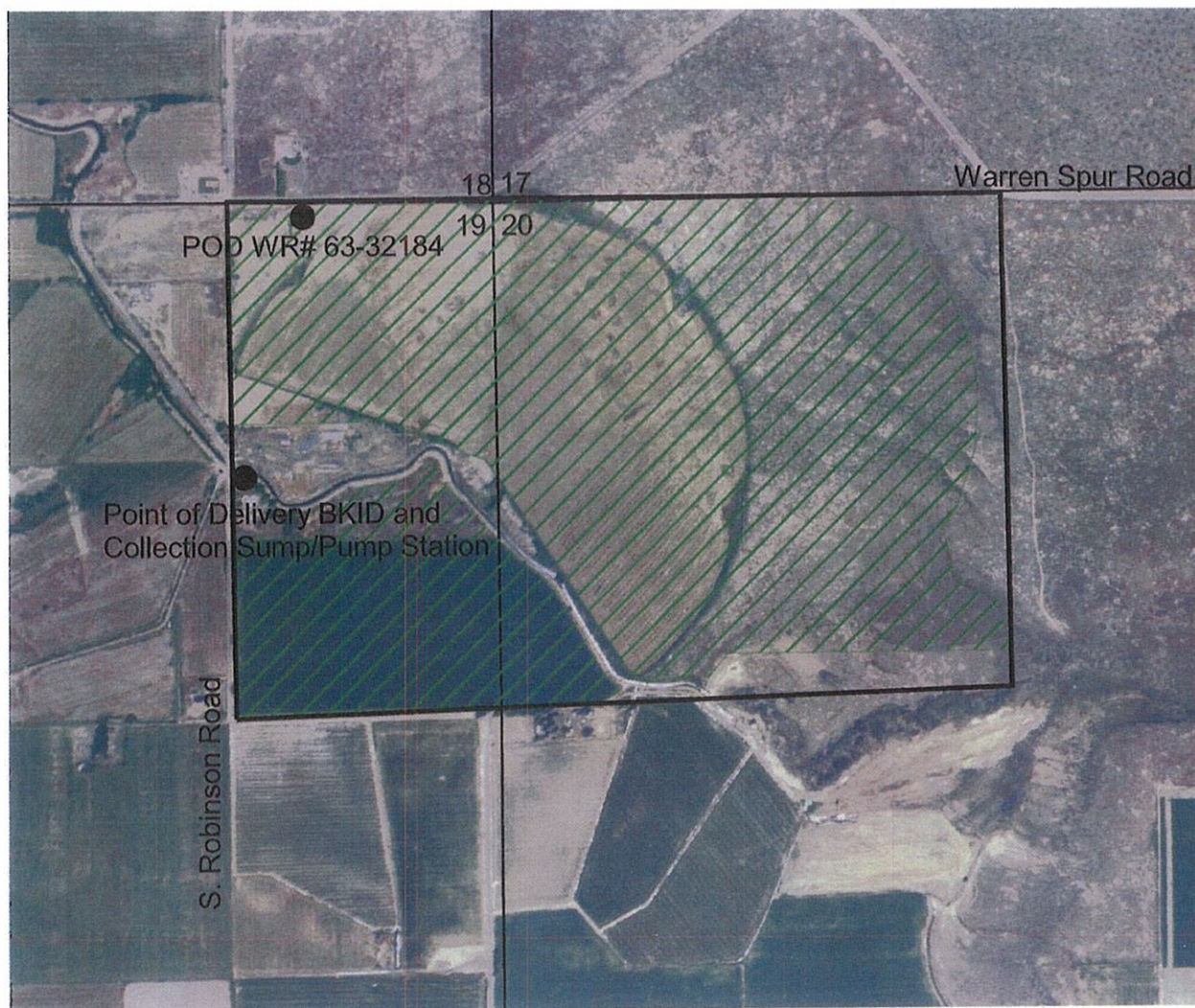
Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

Jerry Tlucek - Snake River Farms T01S R01W Ada County



Permissible Place of Use:
240 acres within the
E1/2 of the NE1/4 Section 19
NW1/4 Section 20
Township 01S Range 01W

 **200 Irrigated Acres**
 **240 Acres Permissible POU**

Prepared By: Paul E. Drury, P.E.
Date: February 28, 2006

Data Source: IDWR and NAIP



ERO Resources, Corp
Boise, Idaho

EXHIBIT P

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
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Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaefer Kaufmann
Michael W. McGraham
Paul D. McFarlane
Kimberly D. Evans Ross
Jun A. Stenquist

Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Mercalf
Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*
Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

RECEIVED

MAR 15 2006

WATER RESOURCES
WESTERN REGION

March 15, 2006
via Hand Delivery

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

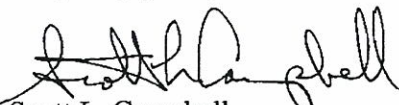
Idaho Department of Water Resources Western
Region Office
2735 Airport Way
Boise, ID 83705

Re: Water Right No. 63-62184 in the Name of Jerry Tlucek
Application for Transfer of Water Right
MTBR&F File No. 22377.1

To Whom It May Concern:

Enclosed please find an original and one copy of the Application for Transfer of Water Right No. 63-62184, which I am submitting to the Department on behalf of my client, Jerry Tlucek. Please file the original and receive-stamp the copy. Thank you for your assistance. Please contact this office if you have any questions.

Very truly yours,


Scott L. Campbell

SLC/tmh
Enclosures
cc: Jerry Tlucek (w/encls.)



BOI_MT2:610249.1

PART 1**6. General Information:**

- a. **Description of diversion system** The system comprises of a groundwater well, 16" in diameter, 388' deep, with a 75 hp pump. Water from the well is diverted through an open discharge 8" buried mainline to a catch basin. Groundwater is then commingled with surface water provided by the Boise-Kuna Irrigation District in the catch basin, then relifted by two (2) 25 hp pumps to a pivot.
- b. **Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?** _____ Yes X 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:**
- None

d. Remarks:

Water right 63-32184 is Applicants' portion of water right 63-7068, in the name of Michael and Nancy Cram, from which 63-32184 was split when Applicants purchased the subject property. 63-32183 represents the Crams' split portion of 63-7068.

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 _____

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

PART 2
(Attach one copy for each right)

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. 63-7068 issued by the Idaho Department of Water Resources.
- c. Claim No. 63-7068, split to 63-32184 (Tlucek) and on file with the Idaho Department of Water Resources.
- d. Transfer No. 63-32183 (Cram) 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 _____ tributary to _____

4. Date or priority 2/21/1968

5. Water is used for the following purpose:

amount 1.06 cfs for irrigation purposes from 4/01 to 10/31
 (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 1.06 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	19	1S	1W	Ada	groundwater well

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	
1S	1W	19	21.7			.5													22.2
		20						10	21										31.0

Total acres 53.2

9. Describe any other water rights used for the same purpose as described above

PART 2

Transfer No. _____

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 *n/a**(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)* *n/a*

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 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number. Please see attached map**

BOI_MT1:807150.1

SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE** n/a

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 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.

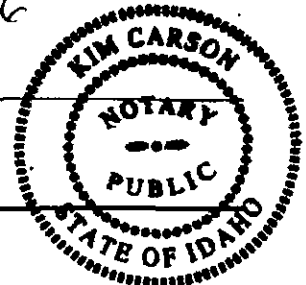
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Janet L. Sweet
(Signature of Applicant)

Subscribed and sworn to before me this 8th day of March, 2006

Kim Carson
(Notary Public)

My commission expires 6/13/11

**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by SL Date 3/15/06 Protest filed by _____

Prelim. check by _____ Fee 290.00 W034068

* Recelpted by AK Date 4-19-06

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

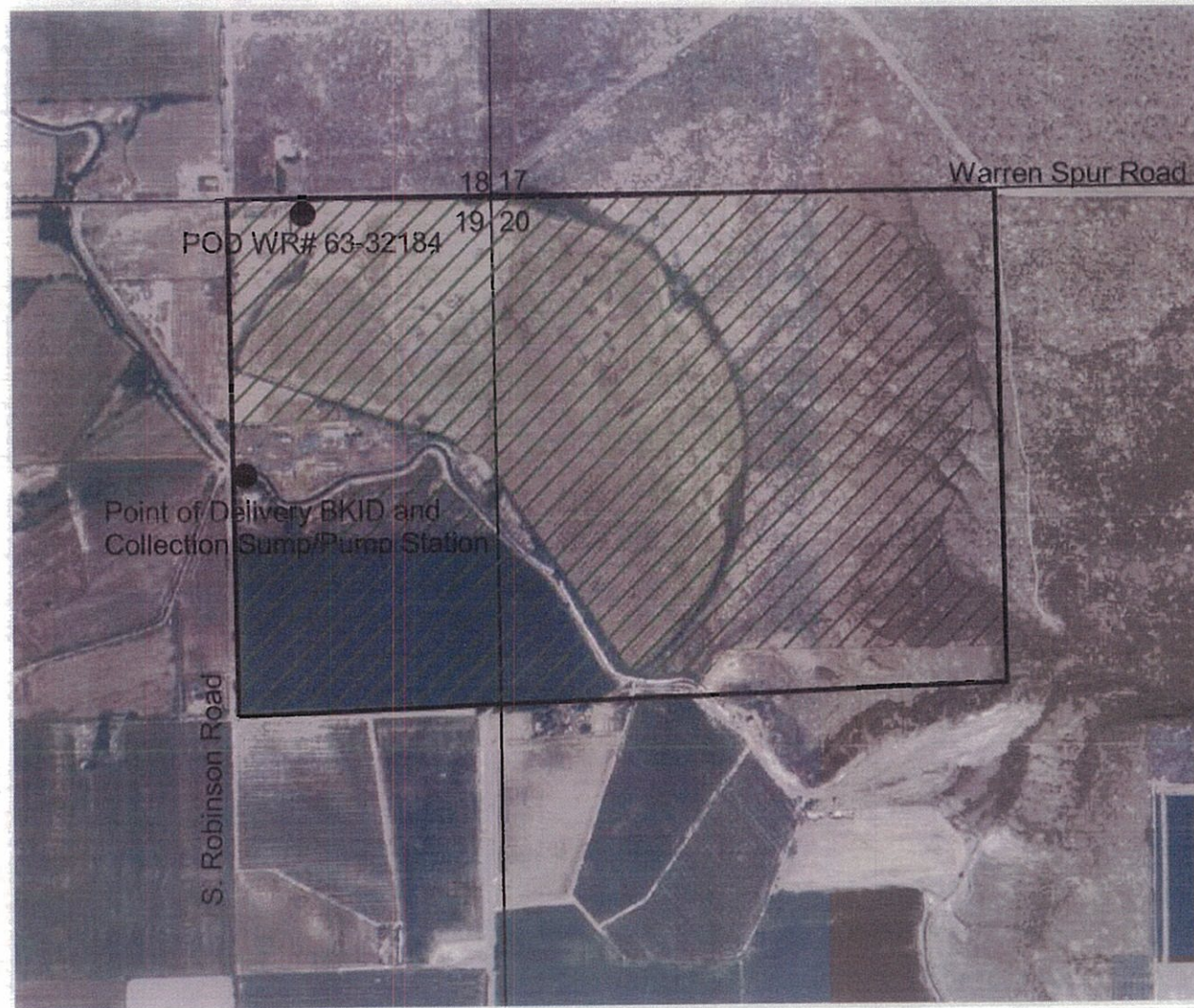
Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

* no fee paid w/ 3/15/06 filing -SL

Jerry Tlucek - Snake River Farms T01S R01W Ada County



Permissible Place of Use:
240 acres within the
E1/2 of the NE1/4 Section 19
NW1/4 Section 20
Township 01S Range 01W

 **200 Irrigated Acres**
 **240 Acres Permissible POU**

Prepared By: Paul E. Drury, P.E.
Date: February 28, 2006

Data Source: IDWR and NAIP



0.3 0 0.3 0.6 Miles

ERO Resources, Corp
Boise, Idaho

EXHIBIT Q

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST



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

March 23, 2006

Scott L. Campbell
Moffatt Thomas Chtd.
101 S Capitol Blvd 10th Fl.
PO Box 829
Boise ID 83701

**RE: Consent Order and Agreement in the Name of Jerry Tlueck
Water Right #63-62184**

Dear Mr. Campbell:

This letter is to acknowledge receipt of items #1, #2, #3, #4, #5 on March 15, 2006 pursuant to the Tlueck Consent Order and Agreement.

This acknowledgement shall also serve as notice that Mr. Tlueck has fully complied with the terms of the Consent Order and Agreement; therefore, the Department shall not pursue a civil enforcement action related to the violation, ref. item #8. Pending the transfer application approval (item #7) the violation shall be considered closed.

Our office appreciates Mr. Tlueck's and your cooperation/timeliness in addressing this violation matter. Should you have any questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

John Westra
Western Regional Manager



EXHIBIT R

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST



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 11, 2006

JERRY & MARY LOU TLUCEK
C/O SCOTT L CAMPBELL
MOFFATT THOMAS ET AL
PO BOX 829
BOISE ID 83701-0829

Re: Application for Transfer of Water Right No. 63-32184

Dear Mr. Campbell:

Thank you for submitting the application for transfer to help resolve the notice of violation against your client. Processing of the application must be delayed as explained below.

The application describes a water right for which a Snake River Basin Adjudication (SRBA) Claim has been filed. SRBA Claims in the area affected by the transfer application 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 application cannot be processed at this time. IDWR will hold the transfer application and will notify you at the appropriate time for it to be processed.

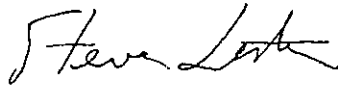
Additionally, the \$290 application fee was not paid. The civil penalty recently paid in this matter does not cover or excuse the application fee. Processing cannot begin without this payment.



Tlucek Application for Transfer
April 11, 2006
Page 2

IDWR regrets the inconvenience undoubtedly caused by this necessary delay. Please contact me at your convenience if you have any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester". The signature is fluid and cursive, with the first name "Steve" written in a larger, more prominent script than the last name "Lester".

Steve Lester
Water Rights Supervisor

EXHIBIT S

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

ADA COUNTY RECORDER J. DAVID NAVARRO AMOUNT 6.00 2
BOISE IDAHO 05/16/06 02:59 PM
DEPUTY Bonnie Oberbiller
RECORDED - REQUEST OF
Boise Kuna Irrigation Dist
106076988

RESOLUTION AND ORDER BY THE BOARD OF DIRECTORS
FOR ANNEXATION OF LANDS TO
BOISE-KUNA IRRIGATION DISTRICT

At the board meeting of MAY 2, 2006, the board held a hearing of the annexation petition filed by Jerry Tlucek, and as a result of the hearing, the following resolution was presented and adopted:

WHEREAS, Jerry Tlucek has filed a request for annexation of land to Boise-Kuna Irrigation District, legal described as follows:

Exhibit A

2.40 ac in SE4 NE4 lying N of Waldvogel Canal & 18.07 Ac NE4
Sec 19 1S 1W, 36.66 Ac W2 NW4 lying N & E Waldvogel Canal &
23.58 ac in Pt E2 NW4 Sec 20 1S 1W
Boise Meridian, Ada County, Idaho

WHEREAS, the District published notice of the filing of the petition in the Idaho Statesman and no objections were made to the petition either prior to or during the annexation hearing,

WHEREAS, the Board of Directors of Boise-Kuna Irrigation District deem it in the best interest of the District to annex the above described property to the District,

IT IS HEREBY ORDERED BY THE MEMBERS OF THIS BOARD OF DIRECTORS:

1. That the above described lands consisting of 133.91 acres be annexed to the Boise-Kuna Irrigation District of which 80.71 ac will be Boise-Kuna water and 53.20 will be a ground water right.
2. That a period of ninety (90) days from the date of this Order be allowed for presentation to the Board of a petition signed by two percent (2%) of the landowners of the District requesting an election to approve or disapprove said annexation.
3. That this Order shall not become effective until said ninety (90) days have passed without such petition being presented or until approval of the annexation at an election.
4. That this Order shall be recorded at the Ada County Recorder's office and shall be made a Minute entry of the Minutes of the Board.

Mike Kukla seconded the motion made by Yuane Yamamoto to adopt the Resolution and Order for Annexation, it pass unanimously, and the Resolution and Order for Annexation was adopted and approved to exceed all previous recorded annexations.

Dated 12nd of May 2006

Ronald I. Blickenstaff
Ronald I. Blickenstaff
Chairman of the Board

Lauren S. Boehlke
Lauren S. Boehlke
Secretary of the Board

RESOLUTION FOR ORDER OF ANNEXATION - Page 1 of 2

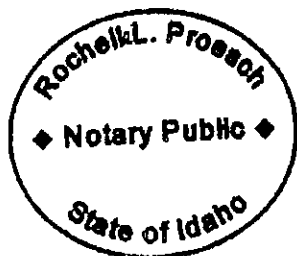


STATE OF IDAHO)
)ss.
County of Ada)

On this 12nd day of May 2006, before me, the undersigned, a Notary Public in the
said State of Idaho personally appeared Ronald I. Blickenstaff

and Lauren S. Boehlke

known to me to be the persons whose names are subscribed to the within instrument
and set my hand and affixed my official seal the day and year in this certificate first
above written.



Rochelle L. Proesch
Notary Public - State of Idaho
Residing at: Melba, Idaho
My Commission Expires: 5/9/2012

RESOLUTION AND ORDER FOR ANNEXATION - Page 2 of 2

EXHIBIT T

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

RECEIVED

JUL 19 2006

WATER RESOURCES
WESTERN REGION

July 18, 2006

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
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Benjamin C. Ritchie

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources Western
Region Office
2735 Airport Way
Boise, ID 83705

Re: Water Right No. 63-32184 in the Name of Jerry Tlucek
Amended Application for Transfer of Water Right
MTBR&F File No. 22377.1

Dear Steve:

Enclosed please find an original and one copy of the Amended Application for Transfer of Water Right No. 63-32184, which we are submitting to the Department on behalf of our client, Jerry Tlucek. The Amended Application contemplates a reduction of irrigated acres in the permissible place of use from 240 to 174.96 acres.

Please file the original, receive-stamp the copy, and return it in the enclosed self-addressed, stamped envelope. Please also advise if an additional fee is necessary. Thank you for your assistance in this matter. Please contact this office if you have any questions. ✓ DB

Sincerely,



Tiffany M. Hudak
Paralegal

/tmh

Enclosure

cc: Jerry Tlucek (w/encl.)



AMENDED

Page 1 of 7STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 73901

RECEIVED

JUL 19 2006

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

WATER RESOURCES
WESTERN REGIONName of applicant Jerry L. Tlucek and Mary Lou Tlucek Phone (208) 495-2034Post Office address 15188 South Can-Ada Road, Melba, Idaho 83641

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 _____

Applicant proposes to change the place of use to include an entire 174.96 acre parcel under the permissible place of use for this water right, as described herein.

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>63-32184</u>	<u>2/21/1968</u>	<u>1.06</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.06 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water groundwater tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	19	1S	1W	Ada	groundwater well

5. 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	
1S	1W	19	28.82			35.04													63.86
		20					27.9	38.03	28.41	16.76									111.10

PART 1**6. General information:**

a. **Description of diversion system** The system comprises of a groundwater well, 16" in diameter, 388' deep, with a 75 hp pump. Water from the well is diverted through an open discharge 8" buried mainline to a catch basin. Groundwater is then commingled with surface water provided by the Boise-Kuna Irrigation District in the catch basin, then relifted by two (2) 25 hp pumps to an irrigation system, including 2 pivots.

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 affect on the land now irrigated if the place of use is changed pursuant to this transfer:**

The water right for the lands within the Boise-Kuna Irrigation District will no longer be used on those same lands but will be transferred to this new place of use to be used with the groundwater right and existing Boise-Kuna Irrigation District water rights, as described in this Transfer Application.

d. **Remarks:**

Water right 63-32184 is Applicants' portion of water right 63-7068, in the name of Michael and Nancy Cram, from which 63-32184 was split when Applicants purchased the subject property. 63-32183 represents the Crams' split portion of 63-7068.

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 _____

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

PART 2
(Attach one copy for each right)

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. 63-7068 Issued by the Idaho Department of Water Resources.
- c. Claim No. 63-7068, split to 63-32184 (Tlucek) and on file with the Idaho Department of Water Resources.
- d. Transfer No. 63-32183 (Cram) 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 groundwater tributary to _____

4. Date or priority 2/21/1968

5. Water is used for the following purpose:

amount 1.06 cfs for irrigation purposes from 4/01 to 10/31
 (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 1.06 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	19	1S	1W	Ada	groundwater well

8. 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	
1S	1W	19	21.7			.5													22.2
		20						10	21										31.0

Total acres 53.2

9. Describe any other water rights used for the same purpose as described above

PART 2

Transfer No. 73901

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 n/a

(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) n/a

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 3**

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number. Please see attached map**

SEE ATTACHMENT A

PART 3**B. CHANGES IN NATURE OF USE** n/a

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe 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.

[Signature]

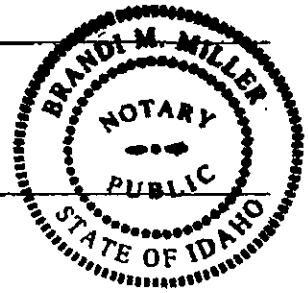
(Signature of Applicant)

Subscribed and sworn to before me this

7thday of July, 2014

[Signature]

(Notary Public)



My commission expires

5/12/2010**FOR DEPARTMENT USE ONLY**Transfer contains 7 pages and 1 attachmentsReceived by SL Date 7/19/06 Protest filed by _____Prelim. check by SL Fee \$290* Received by SL for SK Date 4/19/06 W034068

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

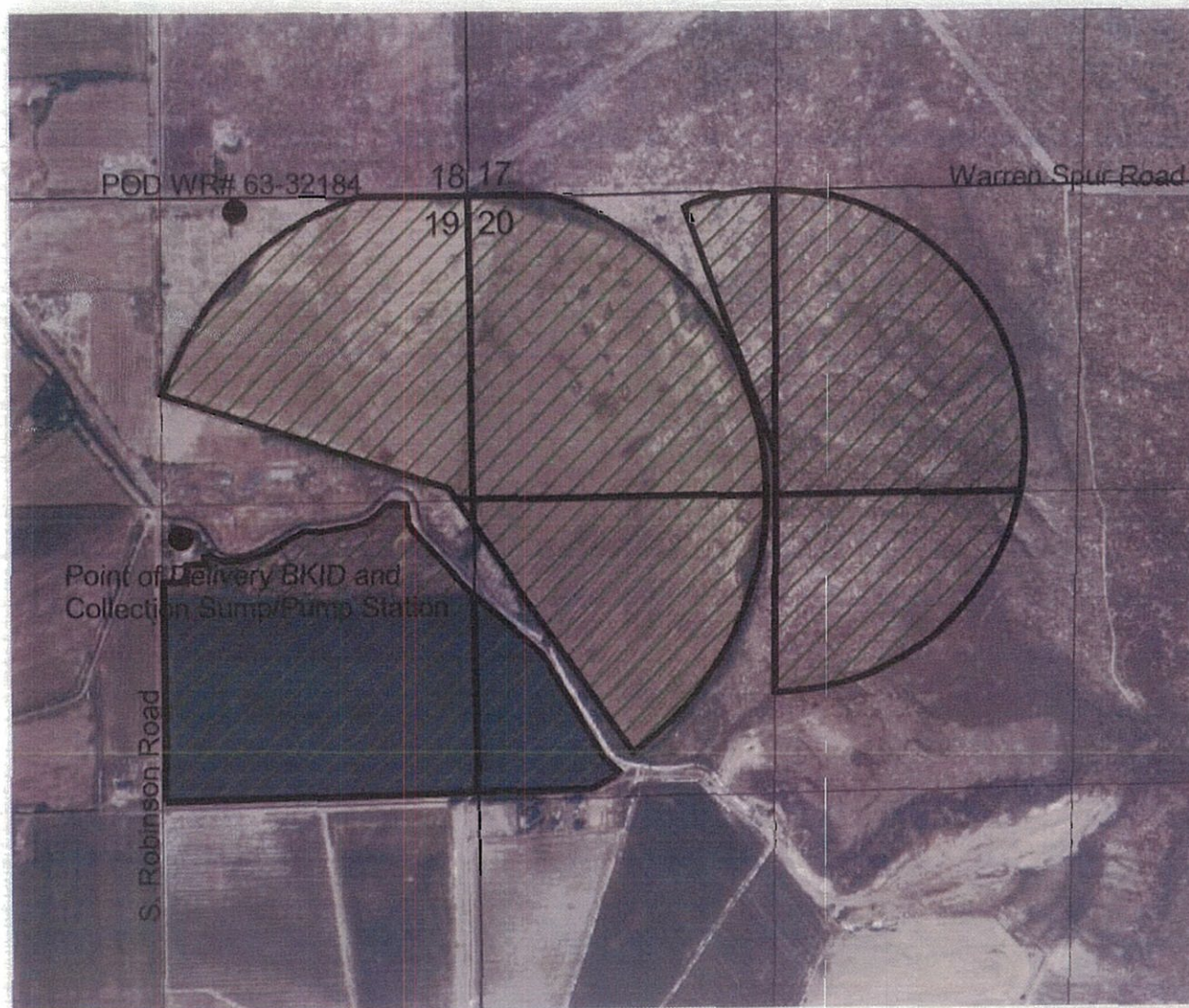
Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

* fee into from original appl.

Jerry Tlucek - Snake River Farms T01S R01W Ada County



Place of Use:
 174.96 acres described as follows:
 28.82ac in NE4 NE4 Section 19
 35.04ac in SE4 NE4 Section 19
 27.9ac in NE4 NW4 Section 20
 38.03ac in NW4 NW4 Section 20
 28.41ac in SW4 NW4 Section 20
 16.76ac om SE4 NW4 Section 20

Existing Water Rights:
 WR# 63- 32184 - 53.2 acres
 BKIDistrict - 121.76 acres

 **174.96 Irrigated Acres**

Prepared By: Paul E. Drury, P.E.
 Date: June 22, 2006

Data Source: IDWR and NAIP



ERO Resources, Corp
 Boise, Idaho

Attachment A

EXHIBIT U

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-32184

NAME AND ADDRESS: JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA, ID 83641

SOURCE: GROUND WATER

QUANTITY: 1.06 CFS
239.40 APY

PRIORITY DATE: 02/21/1968

POINT OF DIVERSION: T01S R01W S19 NENE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.06 CFS 239.40 APY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

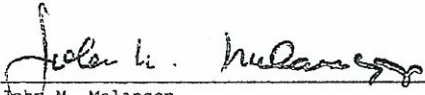
PLACE OF USE:	Irrigation		Within Ada County
	T01S R01W S19	NENE 21.7	SENE 0.5
	S20	NWNW 10.0	SWNW 21.0
	53.2 Acres Total		

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

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 63-32184



EXHIBIT V

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST



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

DAVID R. TUTHILL, JR.
Director

October 9, 2008

AL WORMAN
MARTHA WORMAN
6884 W WARREN SPUR RD
MELBA ID 83641

Re: Application for Transfer No(s). 73901

Dear Mr. & Mrs. Worman:

Attached are copies of one or more applications that may be of interest to you. Please contact the applicant(s) if you have concerns about the application(s).

If you desire to file a formal protest against approval of the application(s), a written protest along with the \$25.00 protest fee for each application protested must be received in this office by November 3, 2008.

Please contact this office at 208-334-2190 if you have any questions regarding the application(s).

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure



EXHIBIT W

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Idaho Statesman

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

RECEIVED

OCT 27 2008

WATER RESOURCES
WESTERN REGION

Account #	DTI#	Identification	Amount
047628	398089	LEGAL NOTICE TLUCEK - PROPOSED CHANGE OF WATER RIGHT	\$68.00
Attention:	P.O. #	Run Dates	
DENISE BUFFINGTON		OCTOBER 16, 23, 2008	
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705		Number of Lines	35
		Affidavit	Legal #
		1	

LEGAL NOTICE PROPOSED CHANGE OF WATER RIGHT

Jerry L. and Mary Lou Tlucek of 15188 S Can-Ada Rd Melba, ID 83641 filed Application No. 73901 to transfer one water right with a 1968 priority date from ground water totaling 1.06 cfs. The purpose of the transfer is to create a permissible place of use for ground water irrigation of 53.2 acres within a 174.96 acre area. Water will be used at the current place of use southeast of the intersection of S Robinson Rd and Warren Spur Rd southeast of Melba.

For specific details regarding the application, please contact the Idaho Department of Water Resources (IDWR) Western Region at 208-334-2190 or visit www.idwr.idaho.gov with detail provided under "new water right applications." Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Director, IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before November 3, 2008. The protest must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Pub. Oct. 16, 23, 2008

0000398089-01

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:

TWO

☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning issue of: OCTOBER 16, 2008

ending issue of: OCTOBER 23, 2008

Janice Hildreth

STATE OF IDAHO)

.SS

COUNTY OF ADA)

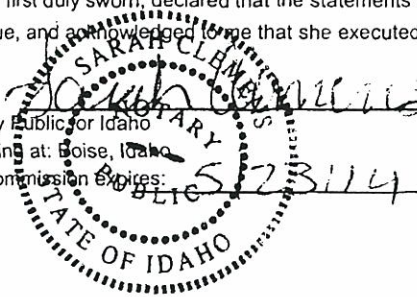
On this 23 day of OCTOBER n the year of 2008

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 by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission Expires:



✓ OK DB 11-6-08

EXHIBIT

tabbles®

W

EXHIBIT X

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Al & Martha Worman
6884 West Warren Spur Rd
Melba ID 83641

RECEIVED

OCT 29 2008

WATER RESOURCES
WESTERN REGION

October 27, 2008

DEPARTMENT OF WATER RESOURCES
WESTERN REGIONAL OFFICE
ATTENTION: STEVE LESTER
2735 AIRPORT WAY
BOISE ID 83705

RE: Application for Transfer of Water
Transfer# 73901

This is a formal protest of the application of Transfer of Water Right #73901 filed by Jerry and Mary Lou Tlucek on July 19, 2006. Mr. Tlucek started farming and using the well across the road from us in the spring of 2005. On August 15, 2005 our domestic well went dry. We feel the cause of our well going dry was directly related to Mr. Tlucek pumping. It appears Mr. Tlucek has been using his water right inappropriately and has been in violation for three years. Mr. Tlucek has been expanding his acreage above the canal. We are concerned that it will jeopardize our well.

We are enclosing a check for \$25.00 to pay for the protest fee of the Transfer of Water Right #73901 application. When we purchased our property in September 2000 we believed there would be no problem with water.

Thank you,

Al Worman

Al Worman

Martha Worman

Martha Worman

\$25 - received by DB 10/29/08 W037013



EXHIBIT Y

TO PRE-HEARING MEMORANDUM AND EXHIBIT LIST

Prehearing Conference Notes

Tlucek Transfer #73901

From: J. Westra

Date: 04/21/09

Location : Western Region

Participants: see attached roster

-Prior to the conference (all parties present) I briefly updated Mr. Worman on the compliance status of Mr. Tlucek. Referenced handouts, transfer is the only remaining piece. Additional shares of surface water was purchased from Boise Kuna Irrigation District totaling 121.76 acres + 53.2 acres groundwater= 176.96 acre PPU.

-Mr. Worman requested to record the conference proceedings. I asked Mr. Campbell his opinion. He stated, he would not discuss settlement if the conference was recorded. I stated to Mr. Worman, the conference setting was normally informal; enabling parties to discuss the issues openly without comebacks. The conference was not recorded.

-The conference began with the applicant (Mr. Campbell, Mr. Lawrence) summarizing the transfer proposal and related history. As discussed above, the transfer is a product of an earlier violation consent agreement.

-Mr. Worman presented his concerns. His domestic well ran dry in 2005*. The static water level had dropped considerably resulting in having to have his pump lowered 20 ft. He has not had problems since; utilizes the well for yard/garden irrigation. Lot is 2/3 ac. See well log; Worman well drilled in 2000. The Worman well is located 500 ft from the Tlucek irrigation well.

-Mr. Campbell felt the issue of interference needed to be address. A consultant could check out the wells to determine if there in fact was a well interference issue. He would have to consult with his client first however.

-All parties agreed to set a hearing date for back stop—Week of Oct 13, 2009. IDWR will go ahead and make the arrangements

Follow-up;

- Send out hearing notices for date set.

- Check back with parties to gauge progress/status.

* 2005 was a drought year



Worman Well Monitoring
October 2 - 10, 2009

