

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

IN THE MATTER OF APPLICATION FOR)
EXCHANGE OF WATER IN THE NAME OF)
TETON SPRINGS GOLF & CASTING CLUB)
AND FREMONT-MADISON IRRIGATION)
DISTRICT)
_____)

**PRELIMINARY
ORDER AUTHORIZING
EXCHANGE**

WHEREAS, Idaho Code § 42-240 provides that the Director of the Department of Water Resources ("Director" or "Department") is authorized to allow exchanges of surface water authorized under a water right with the same or a different source or with water authorized to be diverted under one or more other rights from the same source or another surface water source when the Director determines that such changes can be accomplished in accordance with the provisions of Idaho Code § 42-240; and

WHEREAS, on April 7, 2004, Teton Springs Golf & Casting Club and Fremont-Madison Irrigation District ("Applicants") requested that the Director approve the attached Application for Exchange of Water and Exchange Agreement ("Application"). Fremont-Madison Irrigation District holds rights under contract for storage water space with the United States, Bureau of Reclamation under water right license nos. 21-2156 and 21-2157, also claimed in the Snake River Basin Adjudication under claim nos. 21-2156 and 21-10560; and

WHEREAS, the Director has reviewed the Application and has determined the Application can be approved with certain conditions.

ORDER

IT IS HEREBY ORDERED that the Application is **APPROVED** subject to the following conditions:

1. The agreement to exchange water under the contract right held or controlled by the Applicants as described in the Application is authorized at the locations described in the Application.
2. Diversion and use of water under the exchange is only authorized:
 - a. When water is not available in priority to fill right 22-12981; and,
 - b. After all natural flow rights with priority dates earlier than the priority date of right 22-12981, that would otherwise be deliverable, have been filled on Warm Creek; and,
 - c. When the Teton River and Warm Creek are being regulated together as connected streams.

SCANNED

JUN 02 2006

SUPPORT DATA

IN FILE # 21-2156

3. Diversion and use of water under the exchange is limited to:
 - a. The extent that storage water is available, up to 154 afa, for delivery through the Crosscut Canal under the contract space of Teton Springs Golf & Casting Club from Fremont-Madison Irrigation District; and,
 - b. A maximum diversion rate of 0.76 cfs and a maximum volume of 154 afa.
4. Prior to diversion of water from Sherman Springs under this exchange, the right holder shall install and maintain a totalizing measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. Prior to diversion of water under this exchange, the right holder shall provide a means acceptable to the Department to measure the amount of water entering the pond downstream of Sherman Springs and the amount discharging from the pond into Warm Creek. When this exchange is in effect, or when water is being delivered in priority to fill right 22-12981, the difference in measured flow shall not exceed 0.76 cfs. Otherwise, the flow entering the pond must equal the flow discharging from the pond into Warm Creek.
6. By diversion and use of water under this exchange, the Applicants acknowledge and agree that the Director may terminate diversion of water under this exchange if the Director determines there is interference with or injury to other water rights.
7. The watermaster of Water District No. 01 is authorized to administer the exchange as approved. The watermaster shall regulate and keep a record of the amount of water diverted and accumulated as described in the Application under the exchange of the contract right held or controlled by the Applicants.
8. The diversion and use of water described in this exchange may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
9. Failure to comply with the conditions of this exchange is cause for the Director to rescind approval of the exchange.

DATED this 17th day of November, 2005.


Gary Spackman, Chief
Water Allocation Bureau