

## Lester, Steve

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**From:** Katrina Thomas [kthomas@givenspursley.com]  
**Sent:** Tuesday, February 10, 2004 11:01 AM  
**To:** Steve Lester  
**Subject:** New Union Ditch Company Transfer



George Transtrum  
Ltr to IDWR r...

Mr. Lester:

Attached please find a letter from George Transtrum with regard to the New Union Ditch Company transfer. Please note that the original will follow via U.S. Mail. If you have any questions or any difficulty opening the attachment please let me know.

Thank you.

Katrina Thomas  
Secretary to  
Christopher H. Meyer  
Michael C. Creamer and  
Deborah E. Nelson  
Givens Pursley LLP  
(208) 388-1227, direct  
(208) 388-1300, fax  
kthomas@givenspursley.com  
www.givenspursley.com

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FEB 11 2004

January 26, 2004

Arvens Pursley 111

Steve Lester  
Western Regional Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082

Re: Application for Transfer in the Name of New Union Ditch Company, Ltd.

Dear Steve:

Per your discussion with Mike Creamer, I am enclosing replacement pages 1 and 4 for a transfer application filed by the New Union Ditch Company Ltd. ("New Union") on May 15, 2003 (the "Transfer"). (The Transfer has not yet been assigned a processing number.) These replacement pages amend the Transfer to take advantage of the Department's new policy for transferring an irrigation purpose of use to ground water recharge.

The Transfer originally proposed to change the nature of use for a 0.44 cfs-portion of right 63-146 from irrigation to ground water recharge. As explained in the Transfer, this quantity of water is represented by 22 shares in the New Union Ditch Company (0.02 cfs per share). The Transfer proposed to retire 22 acres of irrigation to account for evaporative losses from 18.1 acres of pond surface area. We calculated this conversion based on Department policy at the time, which required a complex calculation accounting for consumptive use data for specific crops at specific locations.

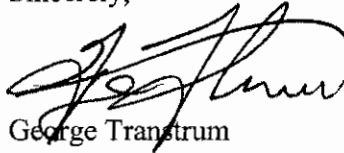
After we filed the Transfer, the Department has adopted a more simplified, acre-for-acre approach in applications such as the Transfer where relatively high-consumptive use crops were grown on the property, which as indicated in the Transfer narrative, is the case here. We would like to adjust the Transfer to conform with the Department's new policy. The enclosed replacement pages reflect the changes necessary to bring the Transfer into line with the new policy. Specifically, we now need to transfer only a 0.36 cfs portion of right 63-146 from irrigation to ground water recharge. This is the quantity of water associated with 18.1 acres of irrigation (at 0.02 cfs per acre) rather than 22 acres identified for retirement under the original Transfer. Also, the narrative attached to the Transfer explains our calculations in arriving at the need to retire 22 acres and 0.44 cfs under right 36-146. Because of the changes described herein and in the enclosed replacement pages, this narrative does not accurately reflect the Transfer. Please treat this narrative as amended to reflect the explanation of the transfer reflected in this letter (i.e., replace "0.44" with "0.36" and "22" with "18.1" in each instance).

Steve Lester  
January 26, 2004  
Page 2

I understand that because we are taking advantage of a policy change and because the Transfer has not yet been assigned an application number, a formal amendment is not required beyond submission of the replacement pages. If a formal amendment is required, or if other signatures or initials are required to reflect the changes we have made, New Union hereby grants attorneys with the law firm of Givens Pursley LLP, which represents the shareholder of the New Union shares at issue in the Transfer, the limited power of attorney solely to amend the Transfer to be consistent with the instructions in this letter and to sign and/or initial on behalf of New Union. This authority expires February 14, 2004, which should be sufficient time to identify such issues.

Please direct any questions you have regarding the changes to the Transfer to Mike Creamer of Givens Pursley LLP. You can reach Mike at 388-1200.

Sincerely,



George Transtrum

Enclosures

cc: Michael C. Creamer

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. \_\_\_\_\_

## APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of applicant New Union Ditch Company, Limited Phone 208-939-2808  
 Post Office address c/o George Transtrum, Pres. P.O. Box 31, Eagle, ID 83616 with copy to Michael C. Creamer, P.O. Box 2720, Boise, ID 83701

**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 Portion of water right associated with 18 shares of New Union stock to be used to offset evaporation from excavated ponds intercepting shallow groundwater. The transfer affects only 0.36 cfs of water right 63-146.

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

| 1. | Right Number | Priority   | Amount<br>(cfs / ac-ft) | Nature<br>of Use      | Period of Use |
|----|--------------|------------|-------------------------|-----------------------|---------------|
|    | 63-146       | 06/01/1865 | 13.40                   | Irrigation            | 3-15 to 11-15 |
|    |              |            | 0.36                    | Ground Water Recharge | 3-15 to 11-15 |
|    |              |            |                         |                       | to            |
|    |              |            |                         |                       | to            |

2. Total amount of water being transferred 13.76 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.  
 3. Source of water Boise River tributary to Snake River  
 4. Point(s) of Diversion:

| Lot | ¼ | ¼  | ¼  | Sec. | Twp. | Rge. | County | Local name for diversion                |
|-----|---|----|----|------|------|------|--------|-----------------------------------------|
|     |   | NE | SE | 23   | 4N   | 1E   | Ada    | New Union Ditch - Boise River Diversion |
|     |   |    |    |      |      |      |        |                                         |
|     |   |    |    |      |      |      |        |                                         |
|     |   |    |    |      |      |      |        |                                         |

5. Lands irrigated or place of use: See Exhibit A.

| Twp. | Rge. | Sec. | NE ¼ |     |     |     | NW ¼ |     |     |     | SW ¼ |     |     |     | SE ¼ |     |     |     | Totals |
|------|------|------|------|-----|-----|-----|------|-----|-----|-----|------|-----|-----|-----|------|-----|-----|-----|--------|
|      |      |      | NE¼  | NW¼ | SE¼ | SW¼ | NE¼  | NW¼ | SW¼ | SE¼ | NE¼  | NW¼ | SW¼ | SE¼ | NE¼  | NW¼ | SW¼ | SE¼ |        |
| 4N   | 1E   | 14   |      |     |     |     |      |     |     |     |      |     | E   |     |      |     |     |     |        |
|      |      | 15   |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     | E   |        |
|      |      | 23   |      |     |     |     | E    | E   |     |     |      |     |     |     |      |     |     |     |        |
|      |      |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |        |
|      |      |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |        |
|      |      |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |        |
|      |      |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |        |
|      |      |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |        |

Total acres 18

**PART 2**

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** This does not involve split of right.*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount 0.36 cfs for Irrigation purposes from 3-15 to 11-15  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)

2. Point(s) of Diversion: No Change

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion                |
|-----|-----|-----|-----|------|------|------|--------|-----------------------------------------|
|     |     | NE  | SE  | 23   | 4N   | 1E   | Ada    | New Union Ditch - Boise River 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 | SE 1/4 | SW 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 |        |
| 4N   | 1E   | 14   |        |        |        |        |        |        |        |        |        |        | 1.9    |        |        |        |        |        | 1.9    |
|      |      | 15   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 5.2    | 5.2    |
|      |      | 23   |        |        |        |        | 2.4    | 8.6    |        |        |        |        |        |        |        |        |        |        | 11.0   |

Total acres 18.1**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount \_\_\_\_\_ for Balance of Water Right 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 | SE 1/4 | SW 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 \_\_\_\_\_