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STATE OF IDAHO Department of Water Resources Transfer No.
DEPARTMENT OF WATER RESOURCES Eastern Region

Transfer No. 72318

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

of Fish Haven Water Users

208-232-6101

435-946-3221

Name of applicant Sam's Hollow Water Co., acting on behalf Phone 435-946-3221
%Randall C. Budge, PO Box 1391, Pocatello, ID 83204
Post Office address %Doug Johnson, Pres., 206 N. Bear Lake Blvd., Garden City UT 84028

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To add mitigation as an authorized use for a
portion of Fish Haven Water Users Co. Right No. 11-4022 based on Applicant's
140.5 shares (10.95%) which will be used for mitigation of ground water
depletion to Bear Lake as required by Permit Nos. 11-7481 and 11-7491.

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>11-4022</u>	<u>5/18/1871</u>	<u>3.24 cfs**</u>	<u>Mitigation</u>	<u>4/05</u> to <u>11/02</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>

2. Total amount of water being transferred 3.24 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Fish Haven Creek tributary to Bear River

4. Point(s) of Diversion: ****140.5 shares (10.95%) of right. See attached Map of Points of Diversion**

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	16	16S	43E	Bear Lake	Fish Haven Upper North Ditch
		NE	NW	15	16S	43E	Bear Lake	Fish Haven #1 North Ditches
		NE	NW	15	16S	43E	Bear Lake	Fish Haven #2 South Ditch
		SE	NW	15	16S	43E	Bear Lake	Upper South Ditch

5. Lands irrigated or place of use:

[illegible]

12348

Total acres _____

PART 1

6. General Information:

- a. Description of diversion system Diversion structures, measuring devices, ditches, pipelines (see attached map)
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X 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:
Some land will be taken out of irrigation over time as development occurs on the subdivision. The dried up acres effect mitigation for the consumptive use of Applicant's ground water wells pumped under Permit Nos. 11-07481 and 11-07491.
- d. Remarks: See attached copies of Permit Nos. 11-7481, 11-7491, Agreement with Fish Haven Water Users Co. dated 3/14/2002 & IDWR Director Dreher letter dated 8/24/2004. PermitCondition 7 requires this transfer recognizing the change in use to mitigation. The Agreement and Director's letter authorize and direct this Transfer Application be filed by Applicant.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

72318

Page 1

Transfer No. _____

Receipt No. _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 11-4022

Priority Date: 05/18/1871

Origin: Water Right

Basis: Statutory Claim

Status: Active

Source: FISH HAVEN CREEK

Tributary to: BEAR LAKE

Source: SPRING

Tributary to: FISH HAVEN CREEK

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/15 11/02	29.60 CFS		
	Total Diversion	29.60 CFS		

Source and Point(s) of Diversion:

FISH HAVEN CREEK	NWSW	16S 43E	14	BEAR LAKE
FISH HAVEN CREEK	SWNE	16S 43E	15	BEAR LAKE
FISH HAVEN CREEK	NENWSE	16S 43E	15	BEAR LAKE
FISH HAVEN CREEK	NWSENE	16S 43E	16	BEAR LAKE
FISH HAVEN CREEK	SWNWNE	16S 43E	16	BEAR LAKE
SPRING	SWNWNE	16S 43E	16	BEAR LAKE

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 43E 35			15.0	5.0					3.0			8.0	23.0	33.0	20.0	20.0	127.0
16S 43E 2	7.0	5.0	20.0	7.0									27.0			28.0	94.0
16S 43E 10														37.0	40.0	18.0	95.0
16S 43E 11		16.0	9.0		10.0			9.0	6.0	40.0		35.0		5.0	4.0		134.0
16S 43E 14		10.0	15.0		40.0	30.0	36.0	31.0	40.0	40.0	18.0	13.0		3.0			276.0
16S 43E 22	40.0	40.0	40.0	30.0	40.0	13.0	17.0	22.0	10.0	20.0	24.0	15.0	18.0	26.0	38.0	5.0	398.0
16S 43E 23						20.0											20.0
16S 43E 27	13.0	15.0	7.0	10.0		17.0	6.0										68.0

Total Acres: 1212

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Page 2

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Transfer No. 72318
Receipt No. _____

Current Water Right No. 11-4022

Conditions/Remarks:

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

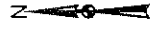
Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

72318

72318

- Outline phase 1 ship
- Wells ship
- Pod ship
- Ditch ship
- Phase 2 ship
- Phase 3 ship
- 40% ship



JOHNSON DEVELOPMENT
PHASE I

BROCKWAY ENGINEERING, PLLC.
ALR July 9, 2003

AERIAL PHOTO 2000

72318

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

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Mitigation	3.24	as needed	4/05 to 11/02
				to

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

Some or all of the available discharge through the 3 Fish Haven ditches will be returned to Bear Lake as mitigation for ground water use. See WR 11-7481, 11-7491

3. Describe effects on other water uses resulting from the proposed change: Areas irrigated by Applicant will be reduced (see 11-7481, 11-7491) as necessary. The purpose of the transfer is to add mitigation as a nature of use to Sam's Hollow's shares of Fish Haven Water Users Company as necessary for mitigation for ground water use on the subdivision. See 3/14/2002 Agreement & Director Dreher 8/24/04 letter.

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.

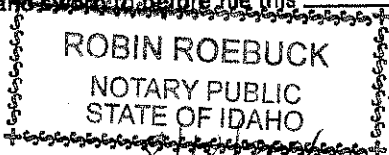
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Sam's Hollow Water Company

By Randall C. Budget

Randall C. Budget (Signature of Applicant) Attorney

Subscribed and sworn to before me this 15th day of September, 192005.



Robin Roebuck

(Notary Public)

My commission expires 8/18/2006

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 8 attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee 370⁰⁰

Receipted by Sc Date 9/27/05 E031284

Published in News Examiner 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 _____

AGREEMENT

THIS AGREEMENT is entered into as of the 14th day of March, 2002, by and among the FISH HAVEN WATER USERS COMPANY, an Idaho corporation (the "Company"), SAM'S HOLLOW WATER COMPANY, an Idaho corporation ("Developer") and C. HOWARD JOHNSON ("Johnson").

RECITALS

A. The Company is a corporation organized for the purpose of, among other things, distributing irrigation water to the shareholders of the Company for their use and benefit.

B. The Company is the owner of certain water rights in Fish Haven Creek (water claim No. 11-04022) and water distribution facilities used to provide water to its shareholders for irrigation use near Fish Haven in Bear Lake County, Idaho.

C. During the authorized irrigation season, the Company delivers irrigation water to its shareholders through five ditches known as the Upper South Ditch and Ditch No. 2 for use south of Fish Haven Creek, and the Upper North Ditch, Ditch No. 1 and Ditch No. 3 for use north of Fish Haven Creek. Water is received through these ditches by the Company's shareholders on a rotational basis, with shareholders taking irrigation turns in accordance with Company policies and sharing proportionately in times of water shortage. The amount of water each shareholder is entitled to receive is based on the number of shares owned by that shareholder. However, because of fluctuations in water availability, no individual shareholder is entitled to any specified amount of water nor is any shareholder assured of the receipt of any specific amount of water. The water claim is owned by the Company and shareholders have only a right to use a proportionate amount of the water authorized by that water claim. No change in ownership of the Company's water claim, or any part of it, is contemplated or authorized by this Agreement.

D. Developer intends to construct a residential and commercial development project (the "Project") on lands now irrigated by a shareholder of the Company, namely Johnson. The Project requires not only irrigation water but culinary water as well. Developer desires to drill and use, at Developer's sole expense, one or more wells to obtain culinary water for use in the Project. The Idaho Department of Water Resources ("IDWR") will not allow such wells to be used without adequate replacement of the groundwater from existing water rights. Developer desires to use the existing shares of Johnson and the water usable in connection with those shares, to provide the necessary replacement or mitigation water.

E. Johnson own the following shares of stock (the "Shares"), on which this Agreement is based and to which this Agreement shall be limited, which Shares allow receipt of irrigation water through the ditches indicated below:

<u>Owner</u>	<u>Upper North</u>	<u>Ditch No. 1</u>	<u>Ditch No. 3</u>	<u>Total</u>
Johnson	99.5	20	21	140.5

F. The Company is willing to facilitate Developer's Project as provided herein, but only on the terms and conditions set forth herein and only with the understanding and agreement that this Agreement shall be strictly construed to accomplish the following intended objectives: that the Company shall not incur any additional expenses, shall not incur any additional burdens, and shall not incur any additional liabilities as a result of this Agreement that in any

way exceed any expenses, burdens and liabilities that would exist without having entered into this Agreement. Stated differently, it is the parties' intention that any and all new expenses, burdens and liabilities resulting from or arising out of this Agreement will be paid and satisfied by Developer rather than the Company.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, Developer and Johnson, incorporating herein the Recitals set forth above, agree as follows:

1. Use of Shares for Groundwater Mitigation. The Company consents to Developer's use of the Shares to meet such mitigation or replacement requirements as may be imposed by the IDWR in connection with the Project, subject to the various provisions of this Agreement and the following conditions:

a. All water used by Developer, and any water used by Johnson, shall be allocated from, and only from, the Shares.

b. Developer shall only be entitled to receive water in the ordinary course of irrigation water delivery by the Company in accordance with the Company's customary operating practices, meaning that Developer will be entitled to water only at various times and in various quantities based on such factors as the rotational use by all shareholders, water availability and operational problems or limitations that may occur from time to time.

c. The Company shall not be obligated to provide any fixed quantity or amount of water to Developer, to provide water at any particular time or schedule (except in accordance with its normal and customary rotational use policies and practices), or to provide any particular quality of water. In times of drought, whenever the Company's facilities may be inoperable, or whenever else normal irrigation water deliveries to shareholders are not operationally or economically feasible, Developer's water entitlement shall be restricted, limited or curtailed in the same manner as other shareholders of the Company are restricted, limited or curtailed.

2. Usage of Water

a. Developer shall, at its sole expense, install a totalizing meter on each of its wells in order to accurately measure the amount of groundwater used in connection with the Project. Developer shall provide usage figures to the Company on an annual basis, and the Company may inspect such meters at any time.

b. Developer shall be entitled to receive and use annually only that amount of irrigation water corresponding to the amount of irrigation water Johnson would be entitled to receive and use from the Shares without regard to the existence of this Agreement, and Developer shall be solely responsible for complying with any usage limitations and approval conditions imposed by the IDWR or any other regulating entity. In particular, Developer shall be solely responsible for any requirements to install a pipeline or ditch for the delivery of mitigation water to Bear Lake, for any operation and maintenance of such facilities, for any monitoring or measuring of groundwater use, for any monitoring or measuring of surface flows in any of the Company's ditches or facilities, for any records or documentation that must be prepared, compiled, submitted or maintained, and for any and all other obligations that may arise in connection with Developer's use of water relative to the Project. The Company may monitor water flows in its ditches as it sees fit, but shall be under no obligation to do so and shall be under no obligation to provide Developer or anyone else with measurement data.

c. Developer shall be solely responsible for regulating any replacement or mitigation flows and for keeping the related facilities in a safe condition, including during times of flood and other emergencies. Except as necessary to take water from the Company's ditches as provided herein or to avert imminent danger to persons or property, Developer shall not have any right to regulate flows in the Company's ditches, nor shall Developer interfere with the Company's water that may be in the ditches. Except as specifically provided herein, Developer shall not adjust, alter or damage any headgates, turnouts, weirs, flumes, valves, culverts, bridges or other structures owned or used by the Company.

d. In no event shall the Company be required to deliver water or make water available for use anywhere outside the boundaries of its historical operating area or anywhere outside the legally established place of use of the Company's water claim. Developer shall not use any of the Company's water anywhere outside the boundaries of the Company's historical operating area or anywhere outside the legally established place of use of the Company's water claim except to provide required mitigation or replacement water to Bear Lake.

3. Delivery of Water. Irrigation water shall be delivered to Developer through the Company's existing ditches at the usual and ordinary delivery points in accordance with the Company's normal operating practices, and the Company shall be under no obligation to make any special or unique arrangements for the delivery of water to Developer or to the Project. It shall be Developer's sole responsibility to cause adequate mitigation water to be transported to Bear Lake, if so required. Likewise, it shall be Developer's sole responsibility to distribute irrigation water for use in connection with the Project.

4. Improvements by Developer

a. Developer shall construct, operate and maintain at its sole expense all wells, pipelines, ditches and other facilities necessary for the Project, and the Company shall have no obligation whatsoever with respect to such facilities.

b. As additional consideration for this Agreement, Developer shall purchase and cause to be installed at its sole expense by no later than April 15, 2002 three flumes. The flumes shall be of a type and size approved in advance by the Company, and shall be installed under the direction of a licensed engineer and a Company representative. The flumes shall be of sufficient size and shall be properly installed so as not to restrict water flows. The flumes shall be installed at such locations as the Company specifies. All engineering and construction fees shall be paid by Developer. All engineering and construction activities shall be performed in a good and workmanlike manner and shall comply with all applicable federal, state and local laws, regulations and codes. All construction shall be coordinated and scheduled in advance with the Company. Chuck Brockway, a licensed engineer who has assisted Developer with the Project thus far, may serve as said engineer, but in the event the Company becomes dissatisfied for any reason with the performance of Mr. Brockway, the Company may retain its own chosen engineer and all engineering fees incurred by the Company shall be reimbursed by Developer within 30 days after request by the Company. The Company shall pay for ordinary repair and maintenance of the flumes, but Developer shall pay to correct any installation errors or unanticipated installation problems.

5. Obligations of Developer

a. Within 30 days following the execution of this Agreement, Developer shall reimburse the Company for its legal fees incurred in the negotiation and drafting of this Agreement.

b. Developer shall, at its sole expense, obtain any and all necessary permits, approvals and authorizations necessary to use the water in the manner contemplated herein and

for the Project generally. No mitigation water shall be used by Developer until all such permits, approvals and authorizations are issued, and mitigation water may only be used while such permits, approvals and authorizations remain in good standing.

c. Developer shall not cause or allow any toxic, hazardous, unsafe or unauthorized substance to enter into the Company's ditches or facilities. Developer shall prevent discharges from the Project that will impair the quality or beneficial use of the water used by the Company or that are harmful to humans, domestic animals, wildlife, fish or the environment. Developer shall comply with all applicable federal, state and local laws, regulations and ordinances relating to water quality. Developer shall take immediate action to abate the discharge of pollutants or unauthorized substances from the Project and shall reimburse the Company for any damages incurred by the Company as a consequence of such discharges, regardless of the cause.

d. Developer shall have no right to modify, alter or damage any of the Company's ditches or facilities, except for the installation of flumes as required herein.

e. For as long as this Agreement remains in effect, Johnson shall be obligated to maintain unencumbered ownership of the Shares (or properly transfer them to Developer, which shall thereafter maintain unencumbered ownership of them) and Developer shall be obligated to pay all regular assessments made by the Company against the Shares, meaning assessments levied against all shares generally for operation and maintenance revenues needed by the Company. In addition, Developer shall pay any and all other expenses incurred by the Company arising out of this Agreement, in recognition of the facts that (1) the Company would not be entering into this Agreement but for Developer's request and Developer's related Project needs, and (2) other shareholders should not be expected to pay expenses attributable in any way to the Project. The Company shall notify Developer of any such other expenses in writing and full payment from Developer shall be due within 30 days thereafter.

6. Company Modifications. The Company reserves the right to enlarge, relocate or otherwise modify all or any part of its ditches and distribution facilities, in its discretion, at any time, without liability to Developer or Johnson, even if such modifications force Developer to revise its mitigation or replacement procedures or facilities or adversely affect any aspect of the Project.

7. No Representations or Warranties. The Company makes no representations or warranties as to its ownership of water claim No. 11-04022 or any other water claim or right, or the ditches and facilities used by the Company, or the land containing the same, and hereby expressly disclaims any such representations or warranties.

8. No Segregation. Neither Developer nor Johnson shall have any right to segregate or partition their share of water, or any assets or improvements of the Company, or any portion of the Company's water claim.

9. No Prescriptive Use. Developer shall have no ownership interest, right-of-way interest or other interest whatsoever in or to the Company's ditches or other assets, through prescriptive use, adverse possession, or otherwise.

10. Indemnification. As further consideration for the rights granted herein to Developer, each of Developer and Johnson agree to indemnify, defend and hold harmless the Company, together with its officers, directors, employees, agents, successors and assigns, from any and all costs, expenses, claims, losses, damages and liabilities of whatever nature (including but not limited to attorney fees) in any way arising out of this Agreement or the Project, including but not limited to any damage caused by erosion, flooding, water loss, drowning, or the discharge of pollutants or hazardous substances. The parties intend for this Agreement to be

interpreted so as to give the Company the broadest possible indemnification. The provisions of this Section shall survive any termination of this Agreement.

11. Insurance. During the term of this Agreement Developer, or Johnson shall maintain a policy of general liability insurance with reasonable policy limits protecting against bodily injury and property damage, and a certificate of such insurance coverage shall be given to the Company prior to the release of any mitigation or replacement water. The Company shall be named as an additional insured under the policy. The policy shall include a provision to the effect that the Company shall be given not less than 30 days prior written notice by certified mail of any cancellation or change that affects the coverage, and the certificate given to the Company shall recite the same.

12. Protection of Company's Water Claim. The Company provides only irrigation water and irrigation is the beneficial use that maintains the Company's water claim in good standing. In the event the Company's water claim should be reduced, limited or curtailed in any respect by the IDWR, by any adjudication proceeding, or by any court or other entity by virtue of Developer's use of water for culinary or mitigation purposes instead of irrigation or by virtue of Developer's use or return of water outside the Company's normal place of use of water, all such reduction shall be attributed solely to the Shares and not to the shares of any other shareholders. The intent of this provision is to ensure that any such reduction shall be borne exclusively by Johnson and not by any other shareholders. Likewise, any lands taken out of irrigation through construction of the Project shall be attributable solely to the Shares. If necessary, the number of Shares may be reduced by the Company to account for any such reduction, limitation or curtailment.

13. Proof of Use. If the IDWR requires the submission of any proof of use, proof of change, proof of transfer, or other documentation of construction or use in connection with the Project, in connection with Developer's wells, or in connection with Developer's mitigation requirements, Developer shall be solely responsible for compiling and submitting the same at its sole expense.

14. Compliance by Developer. Developer shall be obligated to strictly abide by all provisions of this Agreement. The rights granted to Developer herein are conditioned upon strict compliance with the terms of this Agreement. Each obligation imposed on Developer is a material term of this Agreement. The failure to comply with any term shall give rise to a breach of the entire Agreement which shall entitle the Company to the remedies described in this Agreement as well as to any and all other remedies available to the Company by law.

15. No Liens. In constructing the Project and any related mitigation facilities, Developer shall not allow any mechanics' or materialmen's liens to encumber any asset of the Company.

16. Duration of Agreement. Unless terminated by the Company or by mutual agreement of the parties, this Agreement shall be perpetual. The Company may terminate this Agreement immediately upon the occurrence of any of the following events:

a. Developer or Johnson breach any term of this Agreement and fail to cure such breach within 30 days after notice of the same by the Company.

b. Developer loses any regulatory approval, authorization or permit required in connection with the mitigation or replacement water.

c. The Company becomes required by any federal, state or local law, regulation, rule or agency to process or treat any mitigation or replacement water discharged into Bear Lake.

d. Developer becomes dissolved, files for bankruptcy protection, is the subject of an involuntary petition for bankruptcy, or otherwise becomes insolvent.

17. Non-Contravention. Neither Developer, nor Johnson shall use their status or voting rights as a shareholder to cause this Agreement to be contravened, and their contractual obligations hereunder shall not be altered by virtue of their status as a shareholder.

18. Assignment. This Agreement may not be assigned by Developer or Johnson, nor may they sublease any of their rights herein, without the Company's prior written consent, which shall not be unreasonably withheld. Any such assignment shall be subject to this Agreement. Any such assignment or transfer without the Company's prior written consent shall be void. Multiple assignments or subleases to multiple water users shall not be considered reasonable. There shall be no restrictions on assignments or transfers by the Company, but any such assignment or transfer shall be subject to this Agreement.

19. Communications. All communications required or permitted under this Agreement shall be in writing and delivered by hand or sent by United States mail or private courier to the addresses set forth below.

If to Developer or Johnson:

Sam's Hollow Water Company
c/o Randall C. Budge, Esq.
Racine, Olson, Nye, Budge & Bailey Chartered
201 East Center Street
Pocatello, Idaho 83201

If to the Company:

Fish Haven Water Users Company
Attn: William D. Stock, President
Fish Haven, Idaho 83287

Any party may, by written notice so delivered to the others, change the address to which delivery shall thereafter be made. Any such communication shall be deemed to have been delivered on the first business day after receipt.

20. Authority of the Parties. With regard to corporate parties, the persons signing this Agreement warrant that they have full authority to do so and that their corporation has undertaken and obtained whatever corporate formalities and approvals are necessary to enter into this Agreement.

21. Third-Party Rights Prohibited. The rights, duties and benefits contained in this Agreement shall apply only as among the Company, Developer and Johnson. This Agreement shall not create any rights in any other parties, including without limitation the shareholders of Developer (other than Johnson who is a party hereto) or anyone purchasing any ownership or usage rights in the Project.

22. Attorney Fees. In the event an action is commenced to enforce the terms of this Agreement or for any other relief resulting from a default or breach, in addition to any remedy provided by law, the prevailing party shall be entitled to reimbursement of all costs and expenses incurred in bringing the action, including reasonable attorney fees.

23. Entire Agreement. This Agreement represents the entire agreement among the parties hereto and supersedes all prior agreements and understandings concerning its subject

matter. This Agreement shall not be amended or modified except by written instrument signed by all parties hereto.

24. **Waiver.** Failure by the Company at any time, or from time to time, to enforce or to require strict observance of any of the terms of this Agreement shall not constitute a waiver thereof, nor limit or impair such terms in any respect. In addition, any such failure shall not affect the Company's right to avail itself at any time of such remedies as it may have for any default hereunder.

25. **Survival.** All payment, reimbursement, indemnification and other provisions of this Agreement containing obligations that are intended to continue beyond the termination of this Agreement shall survive such termination and remain in effect until their existence is of no benefit to any party.

26. **Construction and Enforcement.** This Agreement shall be construed in accordance with and governed by the laws of the State of Idaho. This Agreement has been carefully reviewed and negotiated by all parties and their legal counsel, and it shall be construed as though all parties drafted it. The headings used herein are for convenience only and shall be disregarded in interpreting and enforcing this Agreement. This Agreement may be specifically enforced. The parties reiterate their intention that this Agreement be construed and enforced as provided in Recital F hereof.

27. **Binding Effect.** The parties reviewed and understood every term of this Agreement prior to its execution, and they have had the opportunity to review the agreement with legal counsel. Subject to the provisions of Section 18, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

28. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date first set forth above.

Company:

FISH HAVEN WATER USERS COMPANY,
an Idaho corporation

Attest:


Board Member

By 
William D. Stock, President

Developer:

SAM'S HOLLOW WATER COMPANY, an
Idaho corporation

Attest:

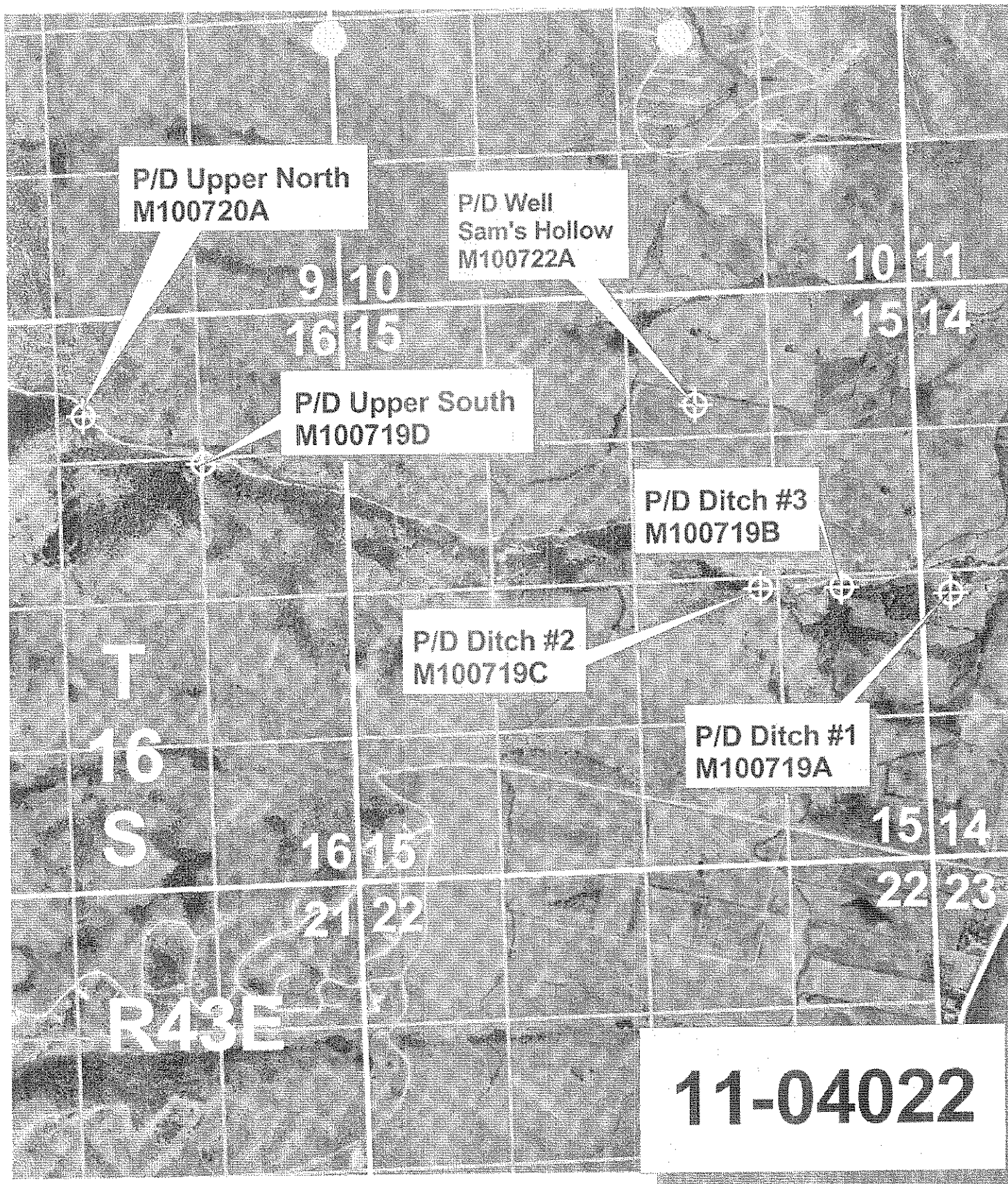
Con Gerdes
Con Gerdes, Secretary

By

C. Howard Johnson
C. Howard Johnson, President

Johnson:

C. Howard Johnson
C. HOWARD JOHNSON



P/D's Fish Haven Water Users Co.