

N. FR. WAOM SUGS



THIS PAYETTE
ADJUDICATION MAY
BE HELPFUL WHEN
DISCUSSING THE
PLACE OF USE FOR
THE IRRIGATION RIGHT
65-03238 FROM
WARM SPRINGS CREEK

Doc

MAP OF ORIGINAL PLACE OF USE. NOTE 1.5 ACRES LEFT IN THE NWSW, S. 33 REFLECTING CURRENT AMOUNT IRRIGATED FROM ORIGINAL RIGHTS 5 ACRES.

Topographic map of a section of the Timberline area. The map shows contour lines and various elevation points. The word "Timberline" is written vertically across the center. The map is oriented with North at the top. The map includes a grid with "N 157" and "N 158" markings, and a "STANDARD PARALLEL NORTH" line. The map is divided into sections labeled "Sec. 27", "Sec. 28", "Sec. 29", "Sec. 30", "Sec. 31", "Sec. 32", "Sec. 33", and "Sec. 34". The map also shows a "Timberline" line and a "STANDARD PARALLEL NORTH" line. The map is oriented with North at the top.

Survey Designated	By Whom Surveyed	Date of Contract	Amount of Survey M. Ch. Lks.	When Surveyed	Total number of Acres	Mean Declination
North Township lines	Herman D. Grudon	198 February 13, 1899	5 74. 58	July 1-9, 1899	19058.92	
Subdivisions			48	July 9-29, 1899		20° 30' E.
Standard (Res)			3	June 29, July 1, 1899		
Connections			1	June 30, 1899		
Subdivisions (Net)			21	July 7-22, 1899		
W. boundary (Res)			1	July 16, 21, 1899		
W. boundary			4	July 6-7, 1899		
Meridian	A. L. Rinearson	1934 Aug 17 1901	00			

From: Boise Co. Association
To: City

STONE MARKED
CS 32
Block #
LOT #

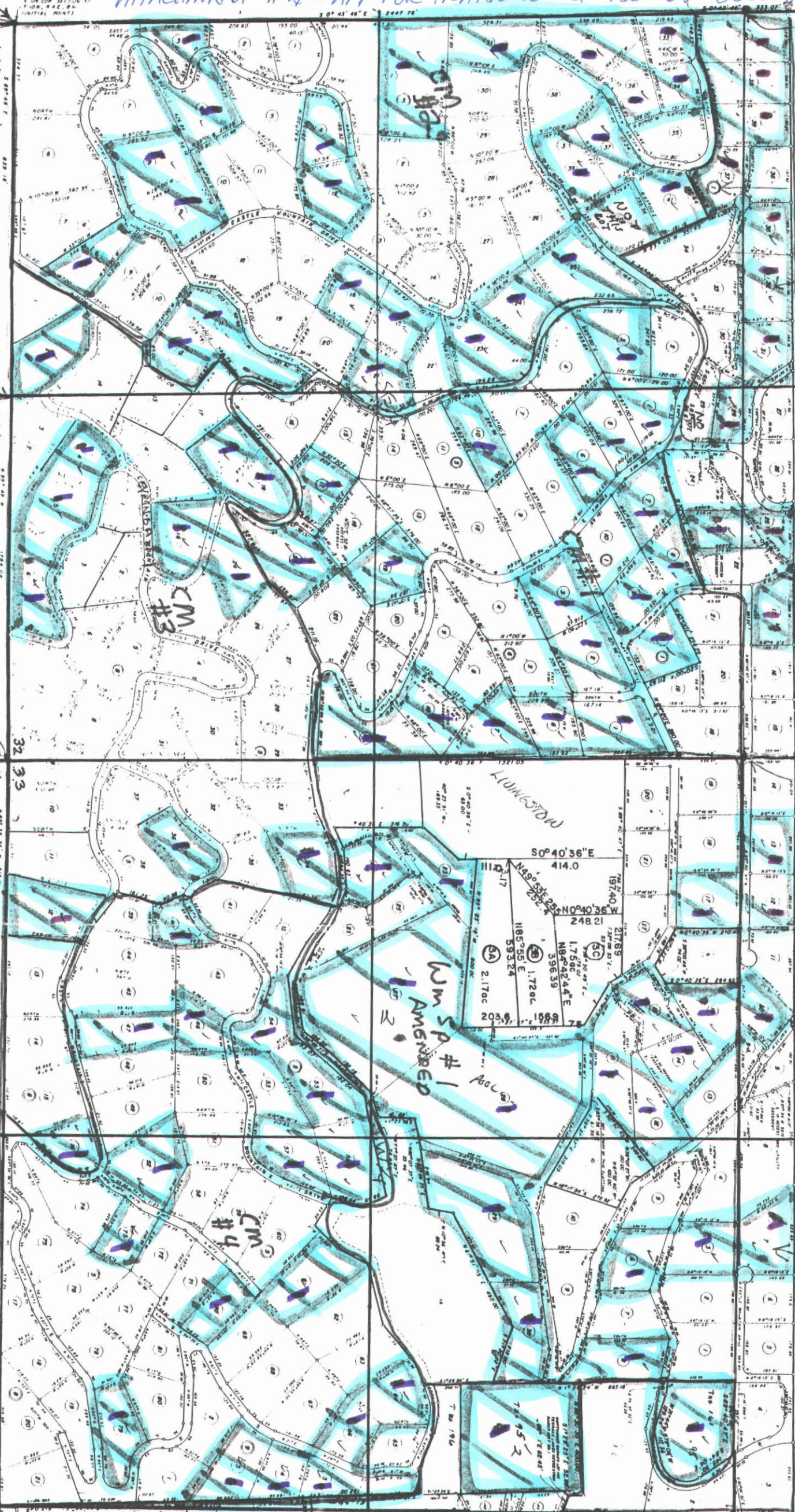
1/4 1/4 Lines

S. 32
S. 33
1/4 corner

Castle Mountain Creek + Warm Springs Sals
AREAS within blue are
lots with water

CS
See 33

344 51
344 52
344 53
344 54
344 55



Lot 2
24.78 ac.
Terrace Lake Inc.
S. 32

1/6 corner
S. 32

MAY 15 1989

RECEIVED
JAN 21 1988

Department of Water Resources
Western Regional Office

W 1/6 corner
S. 33

T4392
Castle Mountain Creek Owners Assn Inc

The Idaho World

P O Box 99
Garden Valley, ID 83622
208 462-3487

RECEIVED

AUG 16 1994

WATER RESOURCES
WESTERN REGION

State of Idaho >

County of Boise >

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Aug 3, 1994 and ending with the issue of Aug 10, 1994.

Deanna Stevenson

State of Idaho >

County of Boise >

On this 15 day of Aug in the year 1994, before me, a notary public, personally appeared Deanna Stevenson 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 he executed the same.

L. Padgett
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6-25-2000

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 65-03238 & A65-03238

Notice is hereby given that Castle Mountain Creeks Owners Assn Inc of Garden Valley, ID has applied to the Department of Water Resources to change the following described water rights pursuant to section 42-222 of Idaho Code.

WATER RIGHTS AS RECORDED

Water Right No.	65-03238
Basis	Decree
Date of Priority	06/01/1883
Source	Warm Springs Creek
Amount	.38 cfs
Use	Irrigation/Domestic/Heating
Point of Div.	NWSE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E
Place of Use	NESE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E 11 acres total

WATER RIGHT CLAIMED IN SNAKE RIVER BASIN ADJUDICATION

Water Right No.	A65-03238
Basis	65-03238
Date of Priority	same as above
Source	same as above
Amount	same as above
Use	same as above
Point of Div.	NENWSE, Sec 32, T10N, R04E SWNWSW, Sec 33, 10N, R04E
Place of Use	same as above

THE FOLLOWING PORTIONS OF WATER RIGHT 65-03238 AND ADJUDICATION CLAIM A65-03238 TO BE CHANGED AS FOLLOWS

Water Right No.	65-03238 & A65-03238
Sources	Warm Springs Creek & Unnamed Stream
Use	Irrigation/Domestic
Point of Div.	NESE, Sec 31, T10N, R04E NWSE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E
Place of Use.	S1/2NE, SE, SEC 32, T10N, R04E S1/2NW, SW, SEC 33, T10N, R04E 7 acres total

Any protest against approval of the proposed change of water right application must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$25 on or before August 22, 1994. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson, Director

Published in The Idaho World August 3 and 10, 1994.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4392
WATER RIGHT NO. 65-03238

This is to certify that: **CASTLE MOUNTAIN CREEK OWNERS ASSN INC**
HC 76 BOX 4001
GARDEN VALLEY ID 83622

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 11/01	0.14 CFS	24.5 AF
DOMESTIC	01/01 to 12/31	0.24 CFS	15.2 AF
Totals		* 0.38 CFS	* 39.7 AF

SOURCE

WARM SPRINGS CREEK
UNNAMED STREAM

TRIBUTARY OF

PAYETTE RIVER, MIDDLE FORK
WARM SPRINGS CREEK

Priority: 06/01/1883

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 31, Township 10N, Range 04E
NWSE , Sec. 32, Township 10N, Range 04E
NWSW , Sec. 33, Township 10N, Range 04E
BOISE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
10N	04E	32	SWNE 0.5	SENE 0.5	NESE 0.5		
			NWSE 0.5	SWSE 0.5	SESE 0.5		3.0
		33	SWNW 0.5	SENW 0.5	NESW 0.5		
			NWSW 1.5	SWSW 0.5	SESW 0.5		4.0
Total number of acres irrigated:							7.0

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 65.
2. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

TRANSFER NO. 4392
WATER RIGHT NO. 65-03238

CONDITIONS OF APPROVAL AND REMARKS

3. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- * 8. The total instantaneous diversion of water from all points of diversion under Transfer 4392 shall not exceed 0.38 cfs, nor a total combined annual volume of 39.7 af.
9. Approval of Transfer 4392 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
10. Right 65-03238 is associated with 105 lots within Castle Mountain Creek Subdivision.

Dated this 11th day of April, 2000.


Chief, Water Allocation Bureau

Page 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 4392

RECEIVED APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

MAR 31 2000

Department of Water Resources WARM SPRINGS MOUNTAIN CREEK OWNERS ASSN INC Phone 462-3765Post Office address HC 76, BOX 4001, GARDEN VALLEY, ID 83622

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use See Memorandum
☒ Change nature of use ☐ Change period of use ☒ Other Source clarification Attachment #3
2. Describe the reason for the proposed changes To add new diversion point, clarify actual source and show current useage of the water. Source was decreed as only Warm Springs Creek with two diversion points. Map from original decree shows one diversion point was from Warm Springs Ck and one from an unnamed stream trib to Warm Springs Creek - see copy of map attached to this application. Current USGS topo map shows Warm Springs Ck as one

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE pt & unn. stream as other

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>65-03238</u>	<u>6-1-1883</u>	<u>.14 cfs</u>	<u>Irrigation</u>	<u>4-15</u> to <u>10-15</u>
		<u>.24 cfs</u>	<u>Domestic</u>	<u>1-1</u> to <u>12-31</u>
				to
				to

2. Total amount of water being transferred .38 cfs cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Warm Springs Creek tributary to Payette River, Middle Fork
4. Point(s) of Diversion Unnamed Stream Warm Springs Creek

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	31	10N	4E	Boise	New Diversion Point (Warm Spgs Ck)
		NW	SE	32	10N	4E	Boise	Existing Diversion Point (" " ")
		NW	SW	33	10N	4E	Boise	Existing Diversion Point(Unn. stream)

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	
10N	4E	32			.5	.5									.5	.5	.5	.5	3
		33							.5	.5	.5	1.5	.5	.5					4

T4392

Total acres 7

PART 1**6 General Information**

*(NWSE, S. 32)

- a. Description of diversion system Existing points of diversion consist of a pump from sump beside creek w/7.5 hp pump and gravity flow for individual irrigation from p.d. in Sec. 33. P.D. in the
S. 31 gravity flows thru a 3,822' mainline down to 40,000 gal. storage tank. Water is gravity fed from tank to homes. 105 lots with water per the 6-18-1987 exam for 65-12776.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes XX 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 11 acres original decreed have been subdivided into various size lots. Minimal irrigation of small lawns makes up the 7 acres shown. The remaining water is used only for domestic in-house use. No heating use of this water now exists.
- d. Remarks
See attached map of original acres decreed, map of subdivision from field exam conducted for Water Right No. 65-12776, and Warranty Deed and Acceptance of Deed Transfer whereby (groundwater sice) Garden Valley Associates (original decreed owner) deeded the water system and appurtenant water rights to Castle Mountain Creeks Owners' Association, Inc. dated 4-11-83, 11-25-80 & 2-22-83.

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 _____.

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 65-03238

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 11/01	0.22 CFS	
HEATING	01/01 to 12/31	0.12 CFS	1.2 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
	Totals	0.38 CFS	1.2 AF

SOURCE

WARM SPRINGS CREEK

TRIBUTARY OF

PAYETTE RIVER, MIDDLE FORK

Priority: 06/01/1883

LOCATION OF POINT(S) OF DIVERSION:NWSE , Sec. 32, Township 10N, Range 04E
NWSW , Sec. 33, Township 10N, Range 04E
BOISE CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
10N	04E	32	NESE 6			6
		33	NWSW 5			5
				Total number of acres irrigated:		11

PLACE OF USE: HEATING, same as IRRIGATION usePLACE OF USE: DOMESTIC, same as IRRIGATION useCONDITIONS/REMARKS:

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. 65-03238 Decreed to _____
in case of STATE OF IDAHO vs A & C CORP., ET AL
dated 1986 in GEM county of IDAHO
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources
- d. Transfer No. _____ which produced this right.

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

☐ Tax Notice ☐ Warranty Deed ☒ Other SEE REMARKS

3. Source of water Warm Springs Creek tributary to Payette River, Middle Fork

4. Date or priority 6-1-1883

5 Water is used for the following purpose

amount .22 for Irrigation purposes from 4-1 to 11-1
(cfs/ac-ft)
amount .04 for Domestic purposes from 1-1 to 12-31
(cfs/ac-ft)
amount .12 for Heating purposes from 1-1 to 12-31
(cfs/ac-ft)

6 Total amount of water under right .38 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
		NW	SE	32	10N	4E	Boise	
		NW	SW	33	10N	4E	Boise	

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	
10N	4E	32													D/G				6
		33										D/G							5

Total acres 11

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

License No. 65-12776 - G.W. source.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion

3 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	

Total acres _____

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

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

2. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3 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	

Total acres _____

N. FE. WARM SACS

-7594X

1972
2562

10024
(1)

7540

③

32 33

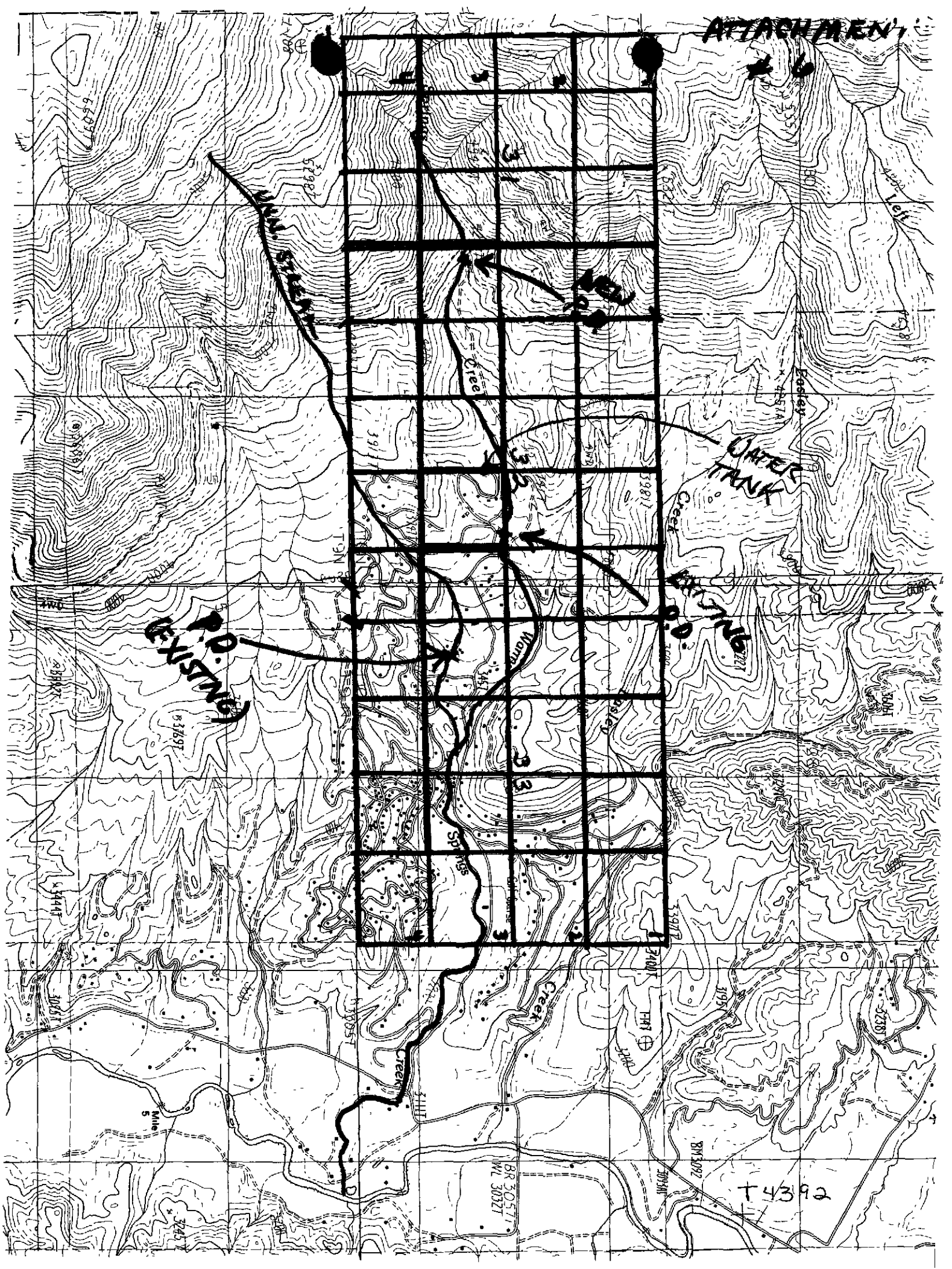
THIS PAYETTE

ADJUDICATION MAY
BE HELPFUL WHEN
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PLACE OF USE FOR
THE IRRIGATION RIGHT
65-03238 FROM
WARM SPRINGS CREEK

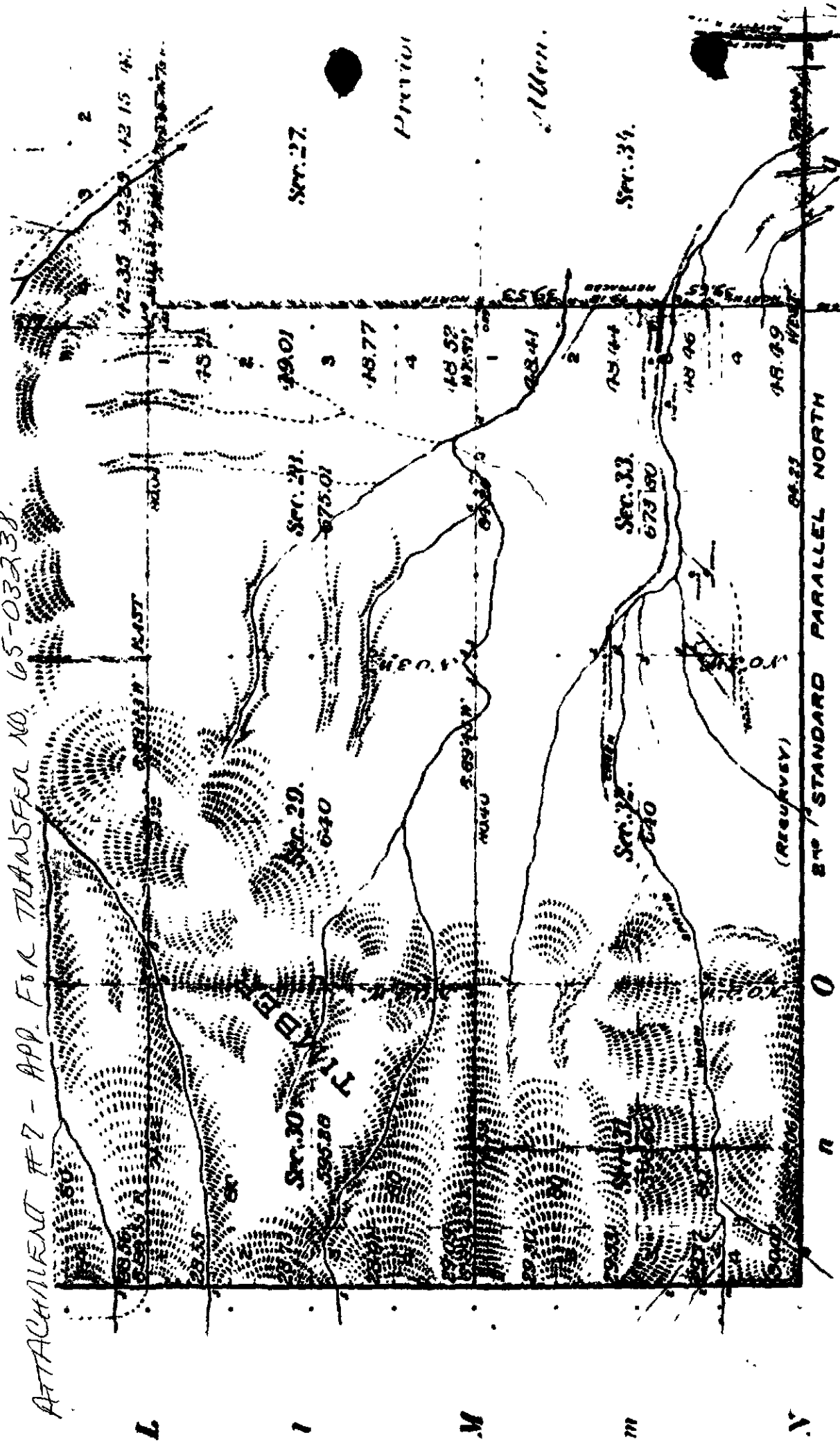
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14E Map F
 use-Payette
 use-Cascade
~~ank Colliard~~
 e-Dwight G. Parks & Ernest Hubbard
~~al Grosvenor~~ George Kaufman
 ith Prestel & O.I. Faulstich & T.I. Lunde
 rrace Lakes Rec. Ranch
~~bert Boone~~ Chester L. Andersen
 lvin Kemper
 K. Roderick
 ran J. Cook
 enn Officer, et al
 bert D. Locke
~~ublic domain~~ U.S. Forest Service

MAP OF ORIGINAL PLACE OF USE. NOTE 1.5 ACRES LEFT
IN THE NWSW, § 33 REFLECTING CURRENT AMOUNT IRRIGATED
FROM ORIGINAL RIGHTS 5 ACRES.



ATTACHMENT #7 - APP. FOR TRANSFER NO. 65-03238.

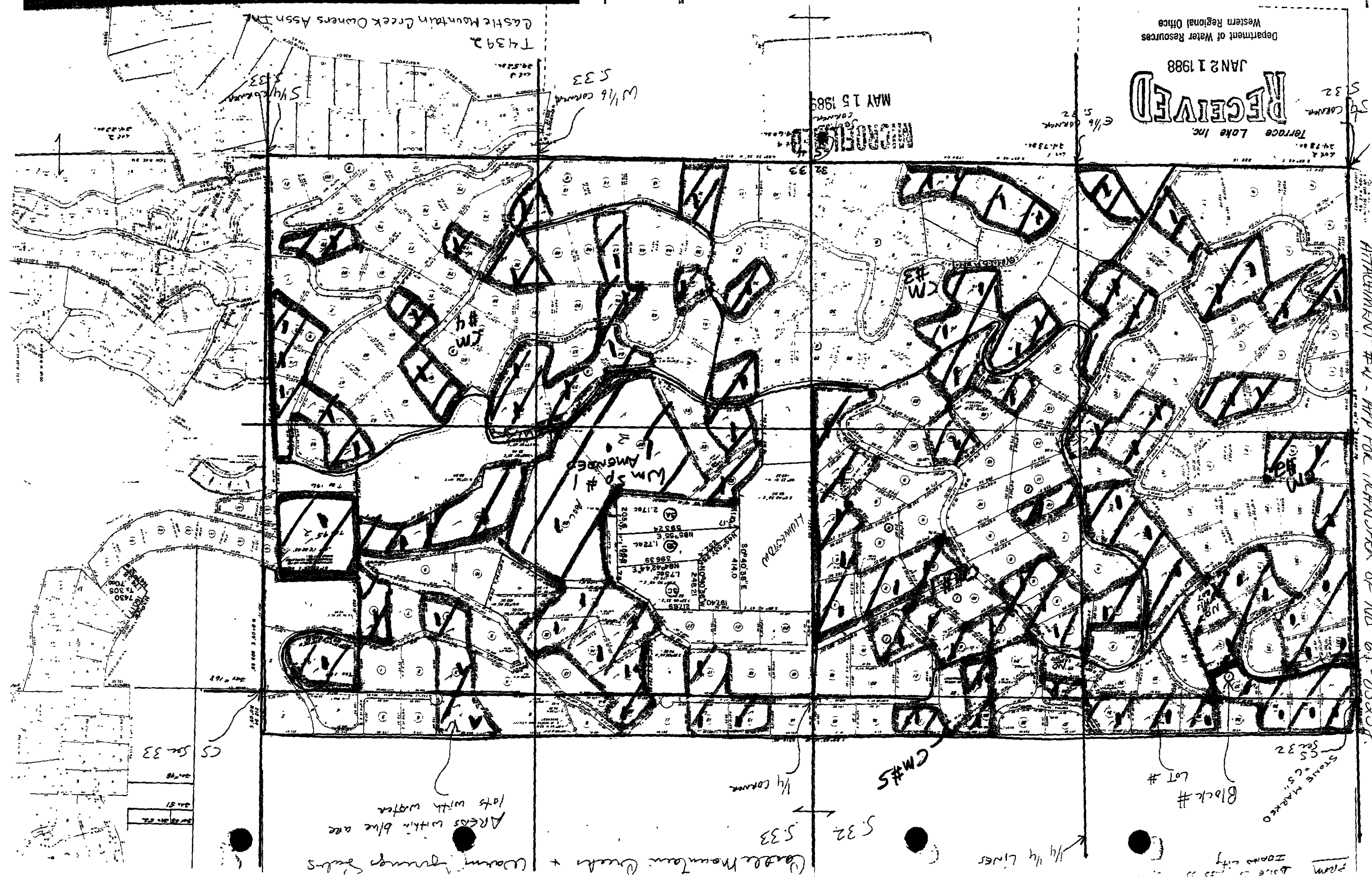


Total number of Acres 19058.92

Survey Designated	By Whom Surveyed	Date of Contract	Amount of Survey M. Ch. & Lk.	When Surveyed	Mean Declination
North Township lines	Herman D. Grudon	1908 February 13, 1898	5 71 58	July 1-9, 1899	20° 30' E.
Subdivisions Standard (Res)			48 61 59	July 9-29, 1899	
Standard (Rem.)			3 77 57	June 29 July 1, 1899	
Connections			1 77 49	June 30, 1899	
Subdivisions (Net)			1 21 55	July 7-22, 1899	
W. boundary (Res)			1 77 03	July 16 21, 1899	
W. boundary (Net)	A. L. Pinearson	13 Aug 17, 21	4 00 00	July 6, 1899	

RECEIVED

ATTACHMENT #4 - APP FOR TRANSFER OF NDA 65-03258



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.

*SEE ATTACHED SUBDIVISION MAP,
& TOPOGRAPHIC MAP,*

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

1.	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Irrigation (Reduced use)	.14 cfs		4-15 to 10-15
	Domestic (Increased use)	.24		1-1 to 12-31

*See #3 below

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

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

Should be no effect - change is from part of the irrigation use to domestic and from heating to domestic.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

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

Subscribed and sworn to before me this 30th day of June, 19 94.

(Signature of Applicant)

BOARD MEMBER

(Notary Public)

My commission expires 9-14-94

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 9 attachments

Received by [Signature] Date 6-30-94 Protest filed by _____

Prelim. check by [Signature] Fee \$50

Receipted by W019672 Date 6-30-94

Published in Idaho World Copies of protest forwarded by _____

Pub. dates 8-3 & 10-1994 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

WARRANTY DEED

ATTACHMENT #1

For Value Received

NAME ON ORIGINAL DEED RIGHT

APP. FOR TRANSFER OF #65-03238

Garden Valley Associates, a general partnership,

the grantor, does hereby grant, bargain, sell and convey unto Castle Mountain Creeks Owners' Association, Inc.

the grantee, whose current address is

Star Route-Garden Valley, Idaho 83622
the following described premises, in

Boise

County Idaho, to-wit:

A portion of Lot 1, Block 4, Castle Mountain Creeks Subdivision No. 2, according to the official plat thereof, recorded as Instrument No. 87097, records of Boise County, Idaho; more particularly described as;

The southerly 50' (measured on a perpendicular from the south property line) of the westerly 50' and a 15' easement for an existing road, and a 10' easement for an existing pipeline, all for the express purpose of maintaining the central water system storage tank and line.

SUBJECT TO current taxes and assessments, easements, covenants, restrictions, and reservations;

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that they are free from all incumbrances except as noted above.

and that it will warrant and defend the same from all lawful claims whatsoever.

Dated: April 11th, 1983

William R. Corcoran
General Partner of Terraco,
a General Partner of
Garden Valley Associates

Property Resources, Inc.
a General Partner of
Garden Valley Associates

STATE OF IDAHO, COUNTY OF Boise
On this 11th, day of April, 1983
before me, a notary public in and for the said State, personally appeared William R. Corcoran,
known to me to be one of the general partners of Garden Valley Associates,
and the partner or one of the partners who subscribed said partnership name to the foregoing instrument and acknowledged to me that he executed the same in said partnership name for Garden Valley Associates.

STATE OF IDAHO, COUNTY OF Boise
I hereby certify that this instrument was filed for record at the request of Will R. Corcoran

at 11 minutes past 11 o'clock A M.,
this 21 day of May,
1983, in my office, and duly recorded in Book 86
of Deeds at Page 252

Delores E. Johnson
Ex-Officio Recorder

By George L. Johnson Deputy.

Fees \$ 2.00
Mail to: Will R. Corcoran

Notary Public
Residing at Boise County, Idaho
Comm. Expires 6-16-85

109165

DEED AND ACCEPTANCE OF TRANSFER

FOR VALUE RECEIVED, GARDEN VALLEY ASSOCIATES, an Idaho general partnership, does hereby convey, release, remise and forever quitclaim unto CASTLE MOUNTAIN CREEKS OWNERS' ASSOCIATION, INC., an Idaho corporation, whose current address is c/o Gretchen Ogden, Star Route, Garden Valley, Idaho 83622, the following described real property situated in Boise County, State of Idaho, to wit:

A portion of Lot 28 of the "AMENDED PLAT OF A PORTION OF WARM SPRINGS ESTATES NO. 1," (recorded as Instrument No. 85591, records of Boise County), said subdivision being situated in the Southwest 1/4 of Section 33, Township 10 North, Range 4 East, Boise Meridian, Boise County, Idaho, described as follows:

Commencing at the most southerly corner of said Lot 28, said corner being common with the most easterly corner of Lot 27 of said subdivision, said corner also being the REAL POINT OF BEGINNING.

Thence along the southwesterly boundary of said Lot 28 North 39°00'00" West a distance of 355.58 feet to a point; thence leaving said boundary North 1°27'57" West a distance of 35.85 feet to a point; thence South 85°23'13" East a distance of 20.11 feet to a point; thence North 1°27'57" West a distance of 111.16 feet to an angle point on the westerly boundary of said Lot 28; thence along said westerly boundary North 1°27'57" West a distance of 182.23 feet to a point; thence leaving said boundary South 42°01'15" East a distance of 239.52 feet to a point of curvature; thence easterly 193.02 feet along the arc of a non-tangent circular curve concave to the north, said curve having a radius of 198.63 feet, a central angle of 55°40'38", and a long chord which bears North 88°40'02" East a distance of 185.51 feet to a set steel pin; thence along a non-tangent line North 18°26'54" East a distance of 80.00 feet to a set steel pin; thence South 61°24'23" East a distance of 95.00 feet to a set steel pin on the easterly boundary of said Lot 28; thence along said boundary South 18°26'53" West a distance of 120.00 feet to a set steel pin; thence leaving said boundary North 74°08'20" West a distance of 154.89 feet to a set steel pin; thence South 10°08'33" West a distance of 221.55 feet to a set steel pin; thence South 68°57'49" East a distance of 58.88 feet to an angle point on the southeasterly boundary of said Lot 28; thence along said boundary the following courses, South 1°23'56" West a distance of 127.42 feet to a point; thence South 71°42'28" West a distance of 71.87 feet to the REAL POINT OF BEGINNING.

Boise County Idaho ss
Request of

Boise County Clerk

Time 3:40 P. M.

Date Jan 22, 1983

Book 56

Page 327

Arlene C. Kolar

By *[Signature]*
Deputy

Fee 6.00

168.317

TOGETHER With all water rights and claims appurtenant thereto;

SUBJECT To taxes and assessments, restrictive covenants, reservations, restrictions and easements (including any easement which may be determined to exist by reason of prescriptive use); claims or title to minerals or water; questions of survey, location, boundary and areas; any law, ordinance or governmental regulation (including but not limited to building, subdivision and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, and the effect of any violation of such law, ordinance or governmental regulation.

DATED This 25 day of NOV, 1980.

GARDEN VALLEY ASSOCIATES,
an Idaho partnership

By: GARDEN VALLEY INVESTORS, a
California limited partnership

By: PROPERTY RESOURCES, INC.,
a California corporation,
its general partner

By: [Signature]
Title: President
PARTNER

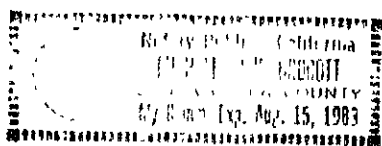
By: TERRACO, an Idaho general
partnership

By: [Signature]
General Partner
PARTNER

STATE OF CALIFORNIA)
) ss.
County of Santa Clara)

On this 21 day of November, 1980, before me, a Notary Public in and for said State, personally appeared Donald S. Carlson, known to me to be the President of PROPERTY RESOURCES, INC., a California corporation, which corporation is the sole general partner of GARDEN VALLEY INVESTORS, a California limited partnership, which partnership is one of the partners of GARDEN VALLEY ASSOCIATES, an Idaho partnership, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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



Michelle Sue Brockell
Notary Public for California
Residing at: Santa Clara County

STATE OF IDAHO)
) ss.
County of Boise)

On this 23 day of November, 1980, before me, a Notary Public in and for said State, personally appeared H. A. GORDON, known to me to be one of the partners of TERRACO, an Idaho general partnership, which partnership is one of the partners of GARDEN VALLEY ASSOCIATES, an Idaho partnership, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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



Ann Marie C. Carrales
Notary Public for Idaho
Residing at: Boise County Id.

ACCEPTANCE OF TRANSFER

IN CONSIDERATION Of the conveyance made by the foregoing Deed from Garden Valley Associates, an Idaho partnership, to Castle Mountain Creeks Owners' Association, Inc., an Idaho corporation, it is hereby agreed as follows:

1. Castle Mountain Creeks Owners' Association, Inc. hereby accepts the conveyance to said Association of the common areas of the development known as Castle Mountain Creeks, including the water system and water rights appurtenant thereto, the roads within the development, the swimming pool, Jacuzzi pool, dressing rooms, utility garage, and other common facilities within the development; and said Association, having inspected all such common facilities, acknowledges that such facilities meet all applicable standards and requirements of the plats, covenants and agreements pertaining thereto.
2. Castle Mountain Creeks Owners' Association, Inc. hereby accepts responsibility for the operation, use, repair, maintenance, upkeep, and any other duties as owner of the common areas and facilities referred to in the preceding paragraph.
3. Castle Mountain Creeks Owners' Association, Inc., on behalf of itself and its members, hereby acknowledges that Garden Valley Associates and each of its partners have satisfied the obligations required of them as outlined and represented in the applicable Property Reports prepared pursuant to the rules and regulations of the office of Interstate Land Sales Regulation, U.S. Department of Housing and Urban Development, pertaining to subdivisions within the Castle Mountain Creeks development.
4. Castle Mountain Creeks Owners' Association, Inc. hereby releases Garden Valley Associates and the partners of said

partnership from any and all claims or obligations which may have arisen or which may hereafter arise against them as the developer of the Castle Mountain Creeks development, including but not limited to any claims pertaining to the common areas and facilities transferred to said Association by the Deed to which this Acceptance is attached, except for the following:

- (a) Garden Valley Associates shall complete the water system so as to obtain certification of the Castle Mountain Creeks water system by the Idaho Department of Health and Welfare.
- (b) Garden Valley Associates shall indemnify and defend the Castle Mountain Creeks Owners' Association from the claims made in Ward v. Garden Valley Investors, et al., Boise County Case No. 1087.

DATED This 22 day of Feb, 1988.³ *O.L.H.*

CASTLE MOUNTAIN CREEKS
OWNERS' ASSOCIATION, INC.

By *Donald L. Hartley*

President

ATTEST:

Eugene J. Brady
Secretary

CONSENT OF DIRECTORS IN LIEU OF MEETING

The undersigned, constituting all of the Directors of Castle Mountain Creeks Owners' Association, Inc., an Idaho corporation, do hereby consent to, adopt, ratify and approve in writing the following corporation action without a meeting in accordance with the provisions of the Business Corporation Act of the State of Idaho:

RESOLVED, That the officers of the corporation are hereby authorized and directed to sign that certain Acceptance of Transfer which is appended to the Deed executed by Garden Valley Associates, an Idaho general partnership, to Castle Mountain Creeks Owners' Association, Inc., dated the 22 day of Feb, 1980³ conveying to said Association the common areas and facilities of the Castle Mountain Creeks development, Boise County, Idaho. H.H.C.
EJB

This Consent in Lieu of Meeting shall be effective as of the

22 day of Feb, 1980³ H.H.C.

Engine J Brady
Director

[Signature]
Director

Director

Director

Director

NOTE: THIS "B"
SPLIT IS A R "LT
OF A DUPLICATE
FILING - TWO CLAIMS
FILED FOR THE
SAME EXISTING
WATER RT. CASTLE
MTN. H.O. ASSOC. FEEL
THEY HAVE OWNERSHIP
DUE TO DOCUMENTS
OF OWNERSHIP ATTACHED
SEE ALSO MEMO WITH
TRANSFER APPLICATION.

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: A65-03238B
Date Received: 3/21/1990
Receipt No: W011530
Received By: SK

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: CASTLE MOUNTAIN CREEKS OWNERS' ASS'N 208-462-3301
Address: C/O GENE BRADY
HC-76, BOX 4022
GARDEN VALLEY, ID 83622
2. Date of Priority: JUN 01, 1883
3. Source: WARM SPRINGS CREEK Trib. to: PAYETTE RIVER, MIDDLE FORK
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
10N	04E	32	NE	NW	SE		BOISE

5. Description of diverting works:
7.5 HP PUMP, PIPELINE, 44,000 STORAGE TANK.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.220		
DOMESTIC	01/01	12/31	0.040		1.20
HEATING	01/01	12/31	0.120		1.20

7. Total Quantity Appropriated is:
0.380 C.F.S. (and/or) 1.20 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
HEATING AND DOMESTIC

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10N	04E	32	NE	SE		IRR	6.0

A65-03238B

Page 1

Date: 06/11/90

MICROFILMED

SEP 11 1990

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	6.0
		33	NW	SW	IRR	5.0
					Section Acres	5.0
					Total Acres	11.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
A65-12776, A65-04002A

14. Remarks:
THIS IS A SPLIT RIGHT FROM 65-03238. THE OWNERSHIP OF THIS RIGHT
WILL BE DETERMINED AT A LATER DATE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

STATE OF IDAHO

Decree Plaintiff

vs

A & C CORP., ET AL.

Decree Defendant

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 wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Organizations:

I do solemnly swear or affirm that I am a Home owner of
Title
Castle Mtn Creeks Owners Assn that I have signed the foregoing
Organization
document in the space below as Home owner of
Title
Castle Mtn Creeks Owners Assn and that the statements contained in the
Organization
foregoing document are true and correct.

Eugene J. Brady
Signature of Authorized Agent

Home owner
Title and Organization

6-11-90
Date

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 11th day
of JUNE 19 90
Samuel E. Luthy
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

Water Right Number - 65-03238

Prefix Translation: WATER RIGHT

Old (D) Number -

FOR TRANSFER

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - - +

NO. 65-03238

*** C - CURRENT OWNER ***
GARDEN VALLEY ASSOC.1 - STAR ROUTE
2 -
3 -
City- GARDEN VALLEY
Phone - 208-000-0000

State- ID Zip- 83622

+ - - Priority Date - - +
06/01/1883+ - - Region - - - +
14 WESTERN+ - - Stage - - - +
D - DECREED

+ - - Status - - - - +

+ - - - - Source - - - - - +
WARM SPRINGS CREEK+ - - - - Tributary - - - - - +
PAYETTE RIVER, MIDDLE FORK

TwN	Rng	Sec	Tract	Lot	RFlg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
10N	04E	32	NW SE			(15) BOISE				
		33	NW SW			(15) BOISE				

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	11/01		0.220	
43 - DOMESTIC		01/01	12/31		0.040	1.20
22 - HEATING		01/01	12/31		0.120	1.20

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
0.380 1.20

TwN	Rng	Sec	Tract	Lot	Acres	Code	Description	County
10N	04E	32	NE SE		6.0	01	IRRIGATION	(15) BOISE
10N	04E	33	NW SW		5.0	01	IRRIGATION	(15) BOISE

Total Acres: 11.0

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +
No Remarks found.+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

Water right number - 65-03238

Prefix Translation: WATER RIGHT

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
STATE OF IDAHO

+ - - - - Decree Defendant - - - +
A & C CORP., ET AL.

+ - Decree Date - +
01/21/1986

+ - - - - Comments - - - - -
No Comments Found

+ - - Audit Fields - 04/02/86 04/30/88 CONVERT 06/27/89 CURTIS

+ - - - - Water Rights Dates and Flags Area - - - - -

Proof Due Date - 00/00/0000	Field Exam Made - 00/00/0000	Field Exam Fee -
Approved/Denied - 00/00/0000	Protested Date - 00/00/0000	Swan Falls -
Proof Made Date - 00/00/0000	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 00/00/0000	Verified Date - 00/00/0000	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District - 65
Licensed Date - 00/00/0000	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 01/21/1986	Name Connector -	POU Ownership Flag-
Presumption Flag -		

WR0749NP
No. 65-12802

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 07/12/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOHN M TRIBBY	06/24/1987	IRRIGATION	04-15 10-15	0.02 CFS	2.80 AFA
C	MARGIE B TRIBBY HC 76 BOX 4030 GARDEN VALLEY ID 83622 (208) 462-3397					
TOTAL DIVERSION:					0.02 CFS	2.80 AFA

Water Source: UNNAMED STREAM

Tributary to: WARM SPRINGS CREEK

Stage: LICENSE

Point(s) of Diversion Capacity: 0.02 CFS

Point(s) of Diversion: T10N R04E S32 NESE

BOISE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
10N	04E	32	:																	:	0.8
TOTAL ACRES																				0.8	

Pou County: BOISE

Other Rights: PERMIT 65-12776.

Other Water Rights Listing Overlapping Place(s) of use:
65-03238 65-12776

Conditions of Approval:

- R04 - Use of water under this water right will be regulated by the watermaster of State Water District No. 65.
- R30 - This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

Dates: App. Received: 06/24/1987 Priority Date: 06/24/1987
Proof Due Date: 10/01/1988 Proof Made Date: 07/18/1988
Exam Made Date: 07/25/1991 Exam Sent to S.O.: 12/08/1992
Licensed Date: 01/11/1993

Misc: Water District Number: 65 Field Exam Fee: R (Received)

Audit: 11/03/87 04/30/88 CONVERT 08/11/88 CURTIS 12/16/88 WALKER
07/29/91 GARRETT 12/08/92 TAYLOR 12/17/92 SKAGGS

This rt was licensed before the source was clarified for decree 65-03238. as a result both rts now overlap (same source - unnamed stream, same PM - part of the 1.5 acres listed on transfer in NESE, see 32, T10N R4E). Owners of 65-12802 would presumably prefer the priority of decree 65-03238. The transfer should probably be conditioned "The rt in combination with 65-12802 is limited..."

WR5809NP
No. 65-03238

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 08/10/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GARDEN VALLEY ASSOC. STAR ROUTE GARDEN VALLEY ID 83622	06/01/1883	IRRIGATION HEATING DOMESTIC	04-01 11-01 01-01 12-31 01-01 12-31	0.22 CFS 0.12 CFS 0.04 CFS	 1.20 AFA 1.20 AFA
TOTAL DIVERSION:					0.38 CFS	1.20 AFA

Water Source: WARM SPRINGS CREEK

Tributary to: PAYETTE RIVER, MIDDLE FORK

Stage: DECREED

Point(s) of Diversion:

T10N R04E S32
S33

NWSE
NWSW

BOISE County
BOISE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE				SUM
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
10N	04E	32	:																	6.0
10N	04E	33	:									05								5.0
TOTAL ACRES																				11.0

Place of use location for HEATING is the same location as described for: IRRIGATION

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Pou County: BOISE

Dates: App. Received: Priority Date: 06/01/1883
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 65 Field Exam Fee:

Audit: 04/02/86 04/30/88 CONVERT 06/27/89 CURTIS

ERO Resources Corp
1106 N Cole Rd., Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985



Denver • Boise

www.eroresources.com
eroboise@eroresources.com

RECEIVED

JAN 30 2001

WATER RESOURCES
WESTERN REGION

January 29, 2001

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

RE: ERO Project 1460

Dear Gary:

Pursuant to our telephone conversation of January 24, 2001 I am sending you a copy of a report I submitted to Mr. Usto Schulz. As you may recall, Mr. Schulz protested an Application for Transfer of Water Right No. 65-04002A submitted to the Department by Castle Mountain Creek Owners Association. Mr. Schulz ultimately withdrew his protest after reaching an agreement with Castle Mountain. A part of that agreement conveyed water to Mr. Schulz with the stipulation that it would be put to a beneficial use within 12 months of the issuance of a quit claim deed issued by Castle Mountain. Mr. Schulz has put the water to beneficial use as you can see from the enclosed Memorandum Report. My purpose for sending you this document is to document Mr. Schulz's activities and to ask you to include this report in the hard file for water right no. 65-04002A in case there are questions or a need for review and research in the future.

Thank you for your consideration of this matter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Sherl", with a long, sweeping horizontal stroke extending to the right.

Sherl L. Chapman

SLC:sw

cc: Usto Schulz (w/o encl.)

RECEIVED

MAR 20 2001

Department of Water Resources

see 65-3238

Consultants in
Natural Resources
and the Environment

ERO Resources Corp
1106 N Cole Rd., Suite C
Boise ID 83704-8661
(208) 373-7983
Fax 373-7985



Denver • Boise

www.eroresources.com
robaise@eroresources.com

RECEIVED

JAN 30 2001

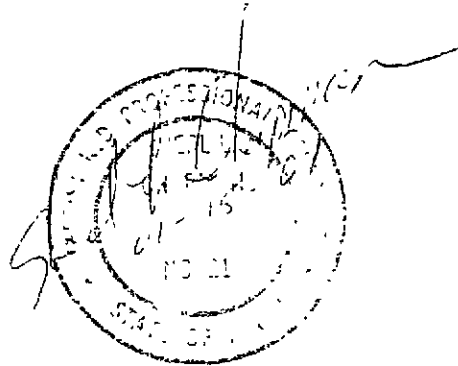
WATER RESOURCES
WESTERN REGION

January 9, 2001

RECEIVED

MAR 20 2001

Department of Water Resources



Usto Schultz
250 West 50th Apt 39B
New York, NY 10019

RE: ERO Project 1460

Dear Mr. Schultz:

This letter is to provide you with documentation of the use of water under water right no. 65-04002A in accordance with the stipulated agreement between you and Castle Mountain Creek's Owners Association. The agreement was signed on the 20th day of November, 1999 and Section 3 of the agreement requires you to place .06 cfs to a beneficial use within 12 months of the issuance of a quitclaim deed from Castle Mountain Creek to you. I was contacted in September 2000 and you requested that I travel to Garden Valley, Idaho and examine the facilities to which the water has been applied in order to verify that the requirements of the agreement had been met. I traveled to the site on November 14, 2000 for such purposes. Upon arriving at the site, I met with two parties residing in the facilities you own. These individuals, Mr. Larry Sandvig and Mr. Richard Overfield, both occupy facilities which are served by the hot water diverted under the above-described water right. Mr. Sandvig occupies a home with approximately 1400 square feet of heated space located in the NW ¼ SW ¼, Section 33, Township 10 North, Range 4 East. The home is equipped with a ¾ inch pvc inlet to three baseboard type flow-through radiators in the crawlspace under the home. Additionally, the ground floor of the home is equipped with two additional freestanding baseboard heaters for utilization of the hot water. Based upon the flow-through characteristics of the baseboard type heaters, the age of the construction, the lack of insulation, and the heating requirements for the property the water requirement for this home was calculated to be 5.2 gallons per minute (calculations attached).

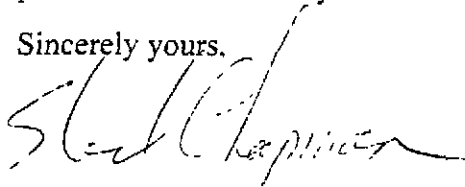
The second property is also located in the NW ¼ SW ¼, Section 33, Township 10 North, Range 4 East, and consists of an insulated greenhouse and carpenters shop. The dimensions of the shop are 48 ft x 60 ft, comprising 2,880 square feet of floor space. While the home occupied by Mr. Sandvig is provided water through gravity means, this facility is equipped with a 2-horse power electric pump delivering water through two, 2-inch pvc pipes to the facility. The perimeter of the shop is equipped with flow-through baseboard radiators and electric fans for circulation of the heat. The water requirement to provide heat for this facility is calculated to be 25.04 gallons per minute.

In addition to the use of the water allowed under the agreement relating to water right no. 65-04002A, you also have a water right for this property, number 65-12719. However, because of the size of the greenhouse and carpenters shop, water right no. 65-12719 is inadequate to provide sufficient water for heating, thus the need to use a portion of the water allowed under 65-04002A for additional heat.

In my opinion, you have complied with the provisions of the agreement made with Castle Mountain Creek's Owners Association and put at least .06 cfs of geothermal water to a beneficial use

If any questions arise regarding the analysis made above or the content of this letter please contact me at any time.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Sherl L. Chapman".

Sherl L. Chapman

SLC:sw

Usto Schultz Heat/Flow Calculations*

(* based on IDWR Administrative Memo #23)

1.) Sandvig Home

$$\Sigma = [e \cdot \Delta T] 0.8 \cdot A \text{ where } \Sigma = \text{BTU / hr}$$

$$\Delta T = (t_1 - t_0) \text{ where } t_1 = 70^\circ \text{F} \text{ \& } t_0 = -8^\circ \text{F}$$

$$A = \text{Area where } A = 1400 \text{ ft}^2$$

$$e = \text{house efficiency where } e = .67$$

$$e = .67$$

$$\Delta T = 78$$

$$A = 800$$

$$\Sigma = [.67 \cdot 78] \cdot 8 \cdot 1400 = 52.26 \cdot 1120 = 58531.2 \text{ BTU / hr}$$

Temperature drop

$$\Delta T_s = 0.3 (S - t) \text{ where } \Delta T_s = \text{temp drop across system } ^\circ \text{F}$$

$$S = \text{Source temperature } ^\circ \text{F}$$

$$t = \text{temperature required by system } ^\circ \text{F}$$

$$\Delta T_s = 0.3 (145 - 70) = 22.5 ^\circ \text{F}$$

$$W = \frac{\Omega}{(500) (\Delta T_s)} \text{ where}$$

$$W = \text{flow rate in gpm}$$

$$\Omega = \text{system heat load BTU / hr}$$

$$\Delta T_s = \text{Temperature drop across system } ^\circ \text{F}$$

$$W = \frac{58531.2}{500 \cdot 22.5} = \frac{58531.2}{11250} = 5.2 \text{ gpm}$$

2.) Overfield Shop and Greenhouse

$$A = 2880$$

$$e = 1.1$$

$$t_1 = 75^\circ \text{F}$$

$$t_0 = -8^\circ \text{F}$$

Source temp 145°F

$$E = [e \cdot \Delta T] A = (1.1 \cdot 83) 2880 = 262,944 \text{ BTU / hr}$$

$$\Delta T_s = (145 - 75) .3 = 21^\circ \text{F}$$

$$W = \frac{262944}{(500) (21)} \approx 25.04 \text{ gpm}$$

Total water demanded by the two facilities = $30.4 \text{ gpm} = .067 \text{ cfs}$



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

April 12, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

CASTLE MOUNTAIN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

RE: Water Right 65-03238 (Transfer 4392)

Dear Water Right Holder(s):

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 4392). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact the department if you have questions.

Sincerely,

Camela S. Skaygs
for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of **April**, 2000 I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

RE: WATER RIGHT 65-03238 (Transfer 4392)

**CASTLE MOUNTAIN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622**


**Kari Lynn Townsend
Secretary**



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 12, 2000

MARK LIMBAUGH
WATERMASTER
102 N MAIN
PAYETTE ID 83661

RE: TRANSFER OF WATER RIGHT 65-03238 (Transfer 4392)

Dear Mark:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water right (Transfer 4392) in the name of Castle Mountain Creek Owners Assn., Inc.

If you have any questions, please call me at 208-327-7940.

Sincerely,

Camela S. Skaggs

for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below.**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

CERTIFICATE OF SERVICE

All documents intended to be part of the Department record in connection with a preliminary order shall be served upon the representatives of each party of record. Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate.

I HEREBY CERTIFY (swear or affirm) that I have this day of _____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names))
(Signature)

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when (a) the petition for reconsideration is disposed of; or (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

RIGHT TO HEARING

Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department is otherwise provided by statute, any person aggrieved by any decision, determination, order, or action of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the Department, who is aggrieved by a denial or conditional approval ordered by the Department, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the Department to contest the denial or conditional approval upon filing with the Department, within fifteen (15) days after receipt of the denial or conditional approval, a written permission stating the grounds for contesting the action by the director and requesting a hearing.

APPEAL OF FINAL ORDER TO DISTRICT COURT

If a preliminary order becomes final, any party aggrieved by the final order or orders previously issued in the case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which (a) a hearing was held, or (b) the final agency action was taken, or (c) the party seeking review of the order resides, or (d) the real property or personal property that was the subject of the agency action is located. The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. See Sections 67-5270 through 67-5273, Idaho Code

Change in Nature of Use Evaluation

Right 65-03238 & Transfer 4392

Pam Skaggs 04-11-00

CS

	Rate	Acres	Div. Vol.	C.U. Vol
Before Transfer				
Irrigation	0.22 cfs	11.0	(38.5 afa)	27.5 afa
Heating	0.12 cfs	-----	1.2 afa	-----
Domestic	0.04 cfs	-----	1.2 afa	-----
Totals	0.38 cfs	11.0	1.2 afa	27.5 afa
			(39.7afa)	
After Transfer				
Irrigation	0.14 cfs	7.0	24.5 afa	17.5 afa
Domestic	0.24 cfs	-----	15.2 afa	-----
Totals	0.38 cfs	7.0	39.7 afa	17.5 afa

The proposed changes under Transfer 4392 reduce the total irrigated acres, eliminates heating use, and provides additional domestic use. The change results in a net reduction of consumptive use of water

TRANSFER REVIEW SHEET

(10-99)

Transfer # 4392

Date Reviewed 4-10-2000

Right(s) 65-0.3238

☒ WRQ/Split Summary ☒ ^{No Activity} SRBA Status ☐ Run POU Comparison Report

B:Change P/D C:Add P/D D:Change P/U E:Change Nature of Use
F:Change Period of Use ☒ G:Other Change/Add P/D H:Change P/D & Add P/D
I:Change P/D & P/U ☒ J:Add P/D & Change P/U
^{Clarify source}
^{Change P/D & Nature}

Proof of Ownership Garden Valley Associates to Castle Mountain Creek
Owners Association includes water system & WBS SRBA - Recommendations

Transfer ☒ All of Right ☐ Portion of Right
Resulting Split(s) NONE

Check Transfer Against Recorded Right:

Standard Season 4-1 to 10-31 Standard Volume 3.5 / 2.5

(1) ☒ Priority (2) ☐ Use (3) ☒ Season/W61 (4) ☒ Rate (5) ☐ Volume

(6) ☐ Source (7) ☐ P/D (8) ☐ P/U (9) ☒ Proof/Owner (10) ☒ Map

(11) 65 Water District (12) NO Pertinent Conditions (13) NO Expansion
^{W61 Comment Revid. 3-6-00} ^{Reduction C.U.}

(2) Remove Heating, Reduce IRR to compensate for additional DOM use.
(5) Standard Vol for IRR = 3.5 af/acre 3.5 x 7 = 24.5 af
Balance of Volume for DOM Use < .1 af per home/lot.
(6) Identify second historical source - unnamed stream
(7) " " " P/D & add 2nd P/D on Warm Springs Crk.
(8) Change P/U

Transfer Remarks DOM/105 lots W57 W34

Conditions 020, B04, B43, 081 T18 T17 T07, T08, T09
W/T17 WD

Database/Processing Notes ☒ Standard ☐ Non-Standard
T file

"T" Files Update Complete ☒ Approval Form ☒ Transfer Memo ☒ ^{Change Table}
Database Updated Following Approval ☒ Memo/Form Files Deleted ☒

Change in Nature Evaluation
on back ↓

28 4-12-00

Before:

.22 cts	11.0 acres	IRR	38.5 af	} non-additive per WR+AS * non-CU	< VDR 27.5 af C.U. Vol.
.12 "		HEAT	1.2 af		
.04 "		DOM	1.2 af		
.38 cts	11.0 acres		39.7 af		

After:

.14 cts	7.0 acres	IRR	24.5 af / 17.5 af (C.U. Vol)
.24 "	(105 lots)	DOM	15.2 af
= .38 cts + 7.0 acres IRR/DOM = 39.7 af + Reduced C.U.			

105 Lots/homes? $\times .6 \text{ af} = 63 \text{ af} > \text{Original rt.}$

WATER RIGHT NO.	NAME	OWNER	PRIORITY	DATE	STG/STS	SOURCE	USE DESC	SYSTEM
65-03238	GARDEN VALLEY ASSOC.	C		06/01/1883	D/	WARM SPRINGS CREEK	IRR DOMEST HEAT	WR
T65-03238	GARDEN VALLEY ASSOC.	C		06/01/1883	D/	WARM SPRINGS CREEK	IRR DOMEST HEAT	WR
A65-03238	SPLIT/DUPLICATE RIGHT	C		06/01/1883	/Z	WARM SPRINGS CREEK DUPLICATE CLAIM	IRR DOMEST HEAT	AJ
A65-03238A	WEGNER, GLEN	C		06/01/1883	D/	WARM SPRINGS CREEK	IRR	AJ
	SCHULZ, USTO	C				WARM SPRINGS	DOMEST	
	SCHULZ, DIANA	C					HEAT	
	LIVINGSTON, EARL	C						
	LIVINGSTON, FAY	C						
	BURGER, HARRY	C						
	BURGER, HELEN	C						
	CASTLE MOUNTAIN CREEKS OWNERS ASSOC	C						
	PYLE, MARY E	C						
	SHERMAN, HARRY	C						
	BURGER 111, LENETTE MARIE	C						
	JARVIS, LON	C						
	JARVIS, RENEE	C						
	PYLE, TERRY E	C						
A65-03238B	CASTLE MOUNTAIN CREEKS OWNERS' ASS'N	C		06/01/1883	D/	WARM SPRINGS CREEK	IRR DOMEST HEAT	AJ
R65-03238	CASTLE MOUNTAIN CREEKS OWNERS ASSN	C		06/01/1883	D/	WARM SPRINGS CREEK	IRR DOMEST HEAT	AJ
R65-03238A	WEGNER, GLEN	C		06/01/1883	/I	WARM SPRINGS CREEK	IRR	AJ
	PYLE, TERRY E	C				WARM SPRINGS	DOMEST	
	BURGER, HELEN	C					HEAT	
	CASTLE MOUNTAIN CREEKS OWNERS ASSOC	C						
	SCHULZ, DIANA	C						
	SCHULZ, USTO	C						
	JARVIS, RENEE	C						
	LIVINGSTON, FAY	C						
	BURGER, HARRY	C						
	LIVINGSTON, EARL	C						
	BURGER III, LENETTE MARIE	C						
	PYLE, MARY E	C						
	SHERMAN, HARRY	C						
	JARVIS, LON	C						
R65-03238B	RENUMBERED CLAIM	C		06/01/1883	/Z	WARM SPRINGS CREEK RENUMBERED CLAIM	IRR DOMEST HEAT	AJ

RECEIVED

MAR 31 2000

Department of Water Resources

FILE PRESENTATION

This application was processed prior to the January 12, 2000 memo "Changes to Water Right Applications." The old technique of making application changes was used.

To avoid additional processing delay, the file is forwarded as "one in the pipeline" with respect to that memo. The regional office anticipates that this will be acceptable for this limited group of applications.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

4392

INITIAL REVIEW BY: 4APPLICANT Cattle Mtn Co

1. Right number 65-03238
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change of point of diversion ☒ Add diversion point(s) ☐ Change of place of use
☒ Change nature of use ☒ Other source clarification
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use ☐ SRBA claim *
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☒ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments see attached memo

See attachment #9

- ☒ Check for existing water rights from same source, on land water is being transferred to.

Right number(s) 65-12802 - licensed on unnamed stream

- ☐ SRBA claim. Comments before source clarification

See attachment #5

- k. ☐ Is use within Water District? ☒ Yes ☐ No

If yes, what district? 65Comment letter sent ☒ Yes ☐ No2/18/00

- l. ☒ Legal notice electronically transmitted to DWR03::Vault?

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* See memo dated 3/27/00

4. By Darys Date 3/28/00

*All uses within Water Districts require special conditions.

T4392

MEMORANDUM

To: File No. 65-03238 (A65-03238) for Application for Transfer No. 4392 in the Name of Castle Mountain Creek Owners Assn. Inc

From: Gary Spackman *Gary*

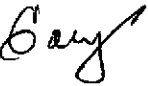
Re: Conditions of Approval

Date: March 27, 2000

The protests to application for transfer no. 4392 have been withdrawn. I recommend the following conditions of approval:

1. (020).
2. (R04). State Water District No. 65, Payette River.

MEMORANDUM

To: Steve Lester 
From: Gary Spackman 
Re: File No. 65-03238 (A65-03238) for Application for Transfer No. 4392 in the Name of
Castle Mountain Creek Owners Assn. Inc.
Date: February 14, 2000

I searched the transfer documents and cannot find a watermaster recommendation. It also appears that the transfer analysis sheet shows that a comment letter should be sought from Mark Limbaugh but it does not show that a request was sent to him. Would you please ask Lori to request the comments of Mark Limbaugh.

MEMORANDUM

June 30, 1994

TO: FILE FOR APP. FOR TRANSFER OF RIGHT NO. 65-03238

FROM: JAN SHURTE

The purpose of this transfer is to add a new diversion point from Warm Springs Creek, show the current uses of the water under this right and to clarify the source(s) historically used.

The original right was decreed for water from Warm Springs Creek with two points of diversion. Per the map from the original file, copy attached, one of these diversion points was on the Northfork of Warm Springs Creek and one was on the Southfork of Warm Springs Creek. However, on the topographic map, the Northfork is designated as Warm Springs Creek and the Southfork appears without a source name indicating it is an unnamed stream trib. to Warm Springs Creek. The point of diversion in the NW1/4SE1/4, S. 32 is from the main Warm Springs Creek and the point of diversion in the NW1/4SW1/4, S. 33 is from the unnamed stream trib. to Warm Springs Creek. Since both points of diversion were decreed, one of the items of this transfer is to clarify the source(s) from which these points actually have been and are diverted from. The diversion point in the NW1/4SW1/4, S. 33 is used by a few private individuals for the 1.5 acres of irrigation within the NW1/4SW1/4, S. 33 - which they have claimed under a duplicate claim filing on this right. However, Castle Mountain Creek Owners Assoc. Inc. feel they were assigned this entire right as shown in the attached documents and are including the 1.5 acres irrigated from this point of diversion on this transfer. The 6 acres originally decreed and irrigated in the NE1/4SE1/4, S. 32 are no longer irrigated as a field, however, individual lots are being irrigated. As stated, only 1.5 acres of the original 5 acres decreed in the NW1/4SW1/4, S. 33 are being irrigated and included on this transfer. This transfer changes a portion of the original irrigated acres to the domestic use which has been occurring since the land was developed into the subdivisions. Heating is also no longer a purpose of use, therefore, it is being changed to domestic purposes. The diversion point in the NW1/4SE1/4, S. 32 and the new point of diversion within the NE1/4SE1/4, S. 31 are diverting into the water tank and gravity fed to the 105 lots indicated.

A new application is being filed for the remaining 162 lots in the Castle Mountain Creek Subdivisions diverting from Warm Springs Creek. This transfer only includes the number of lots(105) being serviced as of the date of the field examination for the groundwater sources filed under Permit No. 65-12776 - 6-18-1987. The new application will also cover the remaining lots irrigated acres over and above the 7 acres listed on this transfer.

The total of this original decreed right (.38 cfs, 105 lots & 7 acres) and the new application(1.58 cfs, 162 lots & 52 acres) will be 267 lots and 59 acres (approx. 1/4 acre of irrigation per lot) for a total of 1.96 cfs (880 gpm).

MAR 06 2000

WATER RESOURCES
WESTERN REGION

RECOMMENDATION OF WATERMASTER

Application No: TRANSFER 4392, APPLICATION 65-13526Applicant's Name: CASTLE MTN CREEK OWNERS

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as

follows: WATERMASTER CONTROL

- c) ☐ I oppose approval of this application for the following reasons:

- d) Additional Comment : _____

Dated this 3 day of MARCH, 2000.Water District No: 65
Watermaster's Signature

Use reverse side of page if you need more space.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

February 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MARK LIMBAUGH
102 N Main
Payette ID 83661

Re: Application for Transfer No. 4392 and Application for Permit 65-13526 in the Name of Castle Mtn Creek Owners Assn. Inc.

Dear Watermaster:

Enclosed is a copy of the above-referenced application for transfer and application for permit. Also enclosed is a form for your recommendation concerning these applications.

Please review the applications and return to **my attention** any comments you might have within two weeks.

If you have any questions or need information, feel free to contact me at this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lori Graves', is written over a horizontal line.

Lori Graves
Sr. Allocations Agent

Encl: Transfer and Permit Applications
Recommendation of WM Form



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

January 25, 2000

JOSEPHINE P BEEMAN
BEEMAN & HOFSTETTER PC
PO BOX 1427
BOISE ID 83701-1427

Re: Application for Transfer of Permit No. 65-03238 in the Name of Castle Mountain Creek
Owners Assn., Inc.LTD

Dear Protestant:

This letter is to acknowledge the withdrawal of protest of the above referenced
application for transfer.

The department will now continue to process this application, subject to certain
conditions of approval.

If you have any questions please call this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Gary Spackman'.

Gary Spackman

GS:st

CC: Applicants
Usto Schulz

BEEMAN & HOFSTETTER, P.C.

Counselors and Attorneys at Law

608 West Franklin Street

P. O. Box 1427

Boise, Idaho 83701-1427

Josephine P. Beeman

Dana L. Hofstetter

RECEIVED

JAN 20 2000

**WATER RESOURCES
WESTERN REGION**

Telephone: (208) 388-8900

Facsimile: (208) 388-8400

E-mail: beehof@micron.net

January 19, 2000

Gary Spackman
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Re: Transfer Application No. 4392 (Water Right No. 65-03238)
Castle Mountain Creek Owners Association, Inc.

Dear Gary:

I enclose a copy of the *Water Rights Agreement and Quitclaim Deed* (Agreement) executed between Castle Mountain Creek Owners Association, Inc. and Usto E. Schulz and Diana G. Schulz. This document will be recorded in Boise County, Idaho. I also enclose the original of the Schulzs' Notice of Withdrawal of Protest to Transfer Application No. 4392 (Water Right No. 65-03238), which is Exhibit C to the Agreement.

Please call me or David Shaw if you have any questions about these documents.

Sincerely,

BEEMAN & HOFSTETTER, P.C.



Josephine P. Beeman

JPB:ja

Enclosures

cc (w/ enc): David Shaw

Rob Spofford

Tony Bohner

D:\1793\3750

RECEIVED

JAN 20 2000

WATER RESOURCES
WESTERN REGION

EXHIBIT C

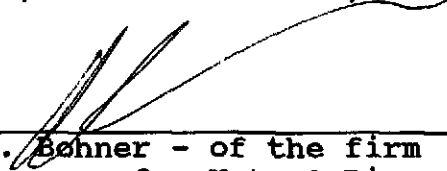
NOTICE OF WITHDRAWAL OF PROTEST

COMES NOW A.J. BOHNER, of the law offices of BOHNER, CHASA, & WALTON, L.L.C., attorneys for Usto Schulz and Diana Schulz, and hereby withdraws their protest to Application for Transfer No. 4392 (Water Right No. 65-03238) in the name of Castle Mountain Creek Owners Association, Inc. ("CMC") This withdrawal of protest is made because the undersigned and CMC have reached a mutual agreement as to the sharing of water right no. 65-04002A pursuant to a written Agreement of even date herewith.

October, 1999. This withdrawal is effective this 13th day of

BOHNER, CHASAN & WALTON, L.L.C.

By


A.J. Bohner - of the firm
Attorneys for Usto & Diana Schulz

WATER RIGHTS AGREEMENT AND QUITCLAIM DEED

This AGREEMENT is made by, between, and among CASTLE MOUNTAIN CREEK OWNERS ASSOCIATION, INC., an Idaho corporation, HC 76, Box 4001, Garden Valley, Idaho 83622, hereinafter referred to as "CMC", and USTO E. SCHULZ and DIANA G. SCHULZ, husband and wife, 65 West 55th Street, Apartment #8-G, New York, New York 10019, hereinafter referred to collectively as "Schulz".

WITNESSETH:

WHEREAS, both CMC and Schulz claim an interest in and to Water Right No. 65-03238 which is associated with real property in Boise County, Idaho, more particularly described in Exhibit "A" hereto, and

WHEREAS, Schulz has protested CMC's Application for Transfer No. 4392 (the "Transfer") for Water Right No. 65-03238, and

WHEREAS, CMC owns Water Right No. 65-04002A which is associated with real property in Boise County, Idaho, more particularly described in Exhibit "B" hereto, and

WHEREAS, the parties desire to resolve matters relating to Water Right No. 65-03238 and the Transfer,

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth hereinafter, CMC and Schulz agree as follows:

1. Schulz does hereby convey, release, remise, and forever quitclaim to CMC all of their right, title, and interest in and to Water Right No. 65-03238. Schulz shall immediately withdraw their protest against the Application for Transfer No. 4392 (Water Right No. 65-03238) by executing and filing with the Idaho Department of Water Resources ("IDWR") a Notice of Withdrawal of Protest. A copy of the Notice of Withdrawal of Protest is attached hereto as Exhibit "C" and is incorporated herein by reference as if set forth in full.

2. After IDWR issues its final written approval for the Transfer upon conditions which do not substantially change or limit the use of water requested on the face of the Transfer, and upon IDWR's written approval for the Transfer having final effect by the running of all applicable periods for reconsideration, amendment, or appeal, CMC shall execute a quitclaim deed (the "CMC Deed") conveying to Schulz 0.06 cubic feet per second ("cfs") of Water Right No. 65-04002A. It is the intention of the parties that after the CMC Deed is executed, delivered, and recorded, CMC shall retain 0.19 cfs of Water Right No. 65-04002A and Schulz shall have 0.06 cfs of Water Right No. 65-04002A.

3. Schulz agrees to place their 0.06 cfs share of Water Right No. 65-04002A to a beneficial use and to obtain all necessary approvals from IDWR to place their share of Water Right No. 65-04002A to beneficial use within 12 months of the issuance of a quitclaim deed from CMC to Schulz. If Schulz does not put their share of Water Right No. 65-04002A to beneficial use by the date agreed to above, or does not obtain the necessary approvals to do so by such date, Schulz shall convey their 0.06 cfs share of Water Right No. 65-04002A back to CMC by recordable quitclaim deed delivered to CMC within 60 days. Both CMC and Schulz shall install suitable measuring devices at their respective diversion points to ensure that CMC's and Schulz's diversions remain within their respective allocated shares of Water Right No. 65-04002A, unless the parties can mutually agree to some other means of measurement.

4. This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement, and their heirs, devisees, assigns, personal representatives and successors. This Agreement shall be recorded in Boise County. The covenants and agreements herein contained shall run with the land associated with Water Right Nos. 65-04002A and 65-03238, and to any land to which Water Right Nos. 65-04002A and 65-03238 are subsequently transferred and to the land associated with any successor water rights split from these water rights. If any portion or all of either of these water rights is transferred to other lands, the respective party shall record this Agreement in the applicable county with an indication that the covenants and agreements herein contained run with such other lands.

5. The party signing on behalf of CMC certifies that the CMC board has approved this Agreement in a resolution memorialized in its corporate minutes and has authorized the individual signing this Agreement to execute the same on behalf of CMC.

6. Time is of the essence in the performance of each and every term and condition hereof.

7. If either party seeks the services of an attorney for the enforcement of any provision of this Agreement, the prevailing party shall have the right to reimbursement of attorney fees and costs, both as to trial and on appeal.

8. This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of Idaho.

9. If any provision of this Agreement is held to be invalid, illegal, unconscionable or unenforceable in any respect, such shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, unconscionable or unenforceable provision had never been included herein, all other terms and provisions remaining effective and in force to the fullest extent permitted by law.

10. The failure of a party to insist, in any one or more instances, upon strict performance of any term, covenant or condition of this Agreement or in any instrument or document referred to herein or contemplated hereby, or to exercise any option contained herein shall not be construed as a waiver, or a relinquishment for the future, of such term, covenant, condition or option, but the same shall remain and continue in full force and effect.

11. The parties may at any time hereafter modify or amend this Agreement by a subsequent written agreement executed by the parties. This Agreement shall not, however, be changed orally, nor shall it be deemed modified in any way by the act of any of the parties hereto. Nothing herein is intended, nor shall it be construed, as obligating either party to agree to any modification to this Agreement.

12. This Agreement and the instruments and documents referred to herein or contemplated hereby constitute the entire agreement between the parties concerning the subject matter of this Agreement, there are no oral or parol agreements existing between the parties relative to the subject matter hereof which are not expressly set forth herein or in the instruments or documents referred to herein or contemplated hereby.

13. The parties hereto have participated in and have had an equal opportunity to participate in drafting this Agreement. No ambiguity shall be construed against any party based on a claim that the party drafted the ambiguous language.

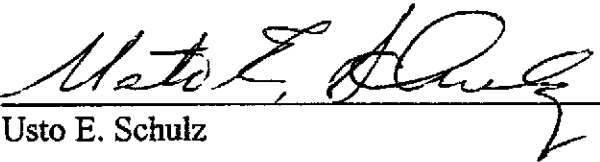
This Agreement is dated this 20 day of Nov., 1999.

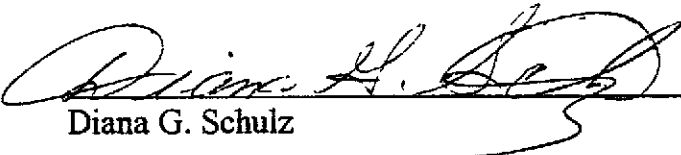
CASTLE MOUNTAIN CREEK OWNERS
ASSOCIATION, INC.

By


President

SCHULZ


Usto E. Schulz


Diana G. Schulz

STATE OF IDAHO)

) ss

County of Ada)

On this 20th day of November, 1999, before me, a notary public in and for the State of Idaho, personally appeared Style J Medcoff known or identified to me to be the PRESIDENT of CASTLE MOUNTAIN CREEK OWNERS ASSOCIATION, INC., the corporation executing the within and foregoing instrument and acknowledged to me that said corporation executed the same for the uses and purposes therein mentioned.

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

[Signature]
Notary Public for Idaho
Residing at Garden Valley Idaho
My Commission Expires: 3-8-2000

STATE OF NEW YORK)

) ss

County of New York)

On this 12th day of October, 1999, before me, a notary public in and for the State of New York, personally appeared USTO E. SCHULZ and DIANA G. SCHULZ, known or identified to me to be the persons who executed the foregoing instrument and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

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

[Signature]
Notary Public for New York
Residing at 1348 Elm Ave NY 10024
My Commission Expires: _____

D\1793\2715F

EXHIBIT A

A portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, all in Township 10 North, Range 4 East, B.M., also known as portions of the Amended Plat of a Portion of Warm Springs Estates Number 1, Castle Mountain Creeks Subdivision Number 1, and Castle Mountain Creeks Subdivision Number 5, Boise County, Idaho.

EXHIBIT B

A portion of the NW¼SW¼ Section 33, Township 10 North, Range 4 East, B.M., also known as a portion of Lot 28 of the Amended Plat of a Portion of Warm Springs Estates Number 1, Boise County, Idaho.

EXHIBIT C

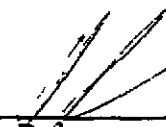
NOTICE OF WITHDRAWAL OF PROTEST

COMES NOW A.J. BOHNER, of the law offices of BOHNER, CHASA, & WALTON, L.L.C., attorneys for Usto Schulz and Diana Schulz, and hereby withdraws their protest to Application for Transfer No. 4392 (Water Right No. 65-03238) in the name of Castle Mountain Creek Owners Association, Inc. ("CMC") This withdrawal of protest is made because the undersigned and CMC have reached a mutual agreement as to the sharing of water right no. 65-04002A pursuant to a written Agreement of even date herewith.

October, 1999. This withdrawal is effective this 13th day of

BOHNER, CHASAN & WALTON, L.L.C.

By


A.J. Bohner - of the firm
Attorneys for Usto & Diana Schulz

BEEMAN & HOFSTETTER, P.C.

Counselors and Attorneys at Law

608 West Franklin Street

P. O. Box 1427

Boise, Idaho 83701-1427

Josephine P. Beeman

Dana L. Hofstetter

Telephone: (208) 388-8900

Facsimile: (208) 388-8400

E-mail: beehof@micron.net

January 19, 2000

Boise County Recorder

P. O. Box BC

Idaho City, ID 83631

Re: Water Rights Agreement and Quitclaim Deed

Dear Sir/Madam:

I enclose with this letter an original Water Rights Agreement and Quitclaim Deed (Agreement) executed between Castle Mountain Creek Owners Association Inc, and Usto E. Schulz and Diana G. Schulz consisting of 8 pages. The Agreement needs to be recorded in Boise County because it affects water rights associated with real property in Boise County, Idaho as described in Exhibits A and B to the Agreement. Accordingly, I enclosed \$24.00 to cover the recording fees.

After recording, please return the original document to this office in the self-addressed stamped envelope. Thank you.

Sincerely,

BEEMAN & HOFSTETTER, P.C.


Josephine P. Beeman

JPB:ja

Enclosures

cc: David Shaw

Rob Spofford

Tony Bohner

Gary Spackman (IDWR Water Right Files 65-03238, 65-04002A)

D:\1793\3751

65-3238

SENDER:

- ☐ Complete items 1 and/or 2 for additional services
Complete items 3, 4a, and 4b.
- ☐ Print your name and address on the reverse of this form so that we can return this card to you
- ☐ Attach this form to the front of the mailpiece, or on the back if space does not permit
- ☐ Write "Return Receipt Requested" on the mailpiece below the article number
- ☐ The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an extra fee)

- 1 ☐ Addressee's Address
- 2 ☐ Restricted Delivery

3 Article Addressed to.

USTO SCHULTZ
3845 SEA ISLAND CT
MERIDIAN ID 83642

4a Article Number

P 414 388 448

4b Service Type

- ☐ Registered ☒ Certified
- ☐ Express Mail ☐ Insured
- ☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

8/17/99

5. Received By (Print Name)

6. Signature (Addressee or Agent)

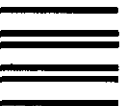
ARAPL Paulino

8. Addressee's Address (Only if requested and fee is paid)

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

● Print your name, address, and ZIP Code in this box ●

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

RECEIVED

AUG 23 1999

WATER RESOURCES
WESTERN REGION

P 414 388 448

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to <i>Ute Schultz</i>	
Street & Number <i>3845 Sea Island Ct</i>	
Post Office, State, & ZIP Code <i>Merriden</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2 95

Postmark or Date

PS Form 3800, April 1995

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED adjacent to the number.**

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY on the front of the article**

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811

6. Save this receipt and present it if you make an inquiry

P 414 388 440

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to

Street & Nu.

Post Office,

Postage

Certified Fee

Special Deliv

Restricted Dr

Return Recd
Whom & Date

Return Receipt
Date, & Address

TOTAL Postage

Postmark or [

CASTLE MTN CREEK OWNERS ASSN
INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

PS Form 3800, April 1995

65-03238

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED adjacent to the number**

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY on the front of the article**

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811

6. Save this receipt and present it if you make an inquiry

65-03238

SENDER:

- ☐ Complete items 1 and/or 2 for additional services
Complete items 3, 4a, and 4b
- ☐ Print your name and address on the reverse of this form so that we can return this card to you
- ☐ Attach this form to the front of the mailpiece, or on the back if space does not permit
- ☐ Write "Return Receipt Requested" on the mailpiece below the article number
- ☐ The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

3 Article Addressed to

CASTLE MTN CREEK OWNERS ASSN
INC

~~HC 76 BOX 4001~~ → 5 Snow Springs

GARDEN VALLEY ID 83622

4a Article Number

P414 388 440

4b Service Type

- ☐ Registered ☒ Certified
- ☐ Express Mail ☐ Insured
- ☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

9M 8/5/99

8 Addressee's Address (Only if requested and fee is paid)

please correct
in your files

5. Received By. (Print Name)

KAY ROGERS

6. Signature (Addressee or Agent)

Kay Rogers

PS Form 3811, December 1994

102595-99-B-0223

Domestic Return Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

RECEIVED

AUG 06 1999

**WATER RESOURCES
WESTERN REGION**

DEPARTMENT OF WATER RESOURCES

**2735 AIRPORT WAY
BOISE, IDAHO 83705**



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)	
FOR TRANSFER OF WATER RIGHT)	NOTICE OF HEARING
NO. 65-03238 IN THE NAME OF)	
CASTLE MOUNTAIN CREEK)	
OWNERS ASSN., INC.)	
_____)	

On June 30, 1994, Castle Mountain Creek Owners Assn., Inc. filed with the Idaho Department of Water Resources (IDWR) application for transfer of permit no. 65-03238. The application was protested by Carolyn &/or Catherine Goff and Usto Shultz. Carolyn &/or Catherine Goff withdrew their protest. At the pre-hearing conference held by IDWR on November 12, 1998, the attorney for Usto Shultz and the applicant stated that they had reached an agreement, but no agreement was submitted.

The Department has scheduled the matter for hearing on **Wednesday, October 13, 1999, at 9:00 a.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from the IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

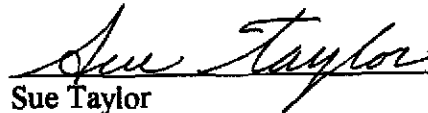
All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 2nd day of August, 1999.



GARY SPACKMAN

I hereby certify that on the 2nd day of August, 1999, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

CERTIFIED MAIL

CASTLE MOUNTAIN CREEK OWNERS ASSN
HC 76 BOX 4001
GARDEN VALLEY ID 83622

USTO SCHULTZ
3845 SEA ISLAND CT
MERIDIAN ID 83642

NON-CERTIFIED MAIL

BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

SHERL CHAPMAN
410 S ORCHARD STE 144
BOISE ID 83705

DAVE SHAW
2309 N MTN VIEW DR STE 174
BOISE ID 83706

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for transfer:

- 1) Will the proposed appropriation injure other water rights?
- 2) Will the proposed transfer constitute an enlargement in use of the original right?
- 3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
- 4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof of issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate

and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.



State of Idaho

DEPARTMENT OF WATER RESOURCES

2735 Airport Way, Boise, Idaho 83705

Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.state.id.us/idwr/idwrhome.htm

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE: 3/22/99

TO: JO Begman

FROM: Steve Lester

fax 388-8400

DOCUMENT DESCRIPTION: Castle Mtn. Protests *
① Transfer #4392 (65-03238) - Usto Shulz (90th protest withdrawn).
② Application for Permit #65-13526 - Gary Bunn
- Arnold & J.B. Withdraw.

TOTAL PAGES SENT: 04 + COVER SHEET

CONTACT: _____

* being considered together: transfer + permit applications

per your call 3/17/99

RECEIVED

AUG 17 1994

WATER RESOURCES
WESTERN REGION

USTO SCHULZ
HC 76 BOX 4048
GARDEN VALLEY, ID 83622

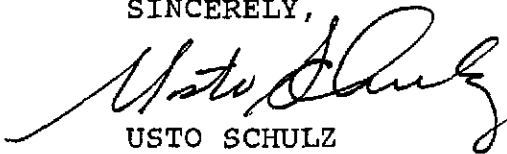
DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

THIS IS AN OBJECTION TO THE CASTLE MOUNTAIN CREEKS OWNERS
ASSOCIATION PROPOSED CHANGE TO WATER RIGHT 65-03238 AND A65-
03238 AS ADVERTISED IN THE IDAHO WORLD 8/3 AND 8/10.

I HAVE ARRANGED WITH ANTHONY BOHNER, ATTORNEY, TO REPRESENT ME
AND OTHERS NAMED IN CLAIM A65-03238. A SUGGESTED RESOLUTION WILL
BE PRESENTED AFTER A DETAILED EXAMINATION AND ANALYSIS BY
HYDROLOGIST SHERL CHAPMAN.

PROTEST FEE OF \$ 25.00 ENCLOSED.

SINCERELY,



USTO SCHULZ
8/15/94

CC CASTLE MOUNTAIN BOARD
ANTHONY BOHNER

*Rec'd \$25-
8-17-94
VR*

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED

AUG 17 1994

WATER RESOURCES
WESTERN REGION

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all necessary information.

1. Matter being protested 65-13526 Castle Mountain Owners Association
 2. Name of protestant Gary L. Bunn
 3. Protestant's representative for service (If different than protestant)
N/A
 4. Service mailing address H.C. 76 Box 2281 Garden Valley, ID 83622
 5. Service telephone no. (208) 462-3808
 6. Basis of protest (including statement of facts and law upon which the protest is based) _____
There is no water available during peak summer months of irrigation.
There are more water users than there is water available.
- (additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? A. Immediate moratorium on Warm Springs Creek.
B. Installation of metering devices by permit holders.
C. Complete review by Idaho Water Resources to determine the actual
amount of water available.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 17th day of August, 19 94.

Gary L. Bunn
PROTESTANT

PROTESTANT'S REPRESENTATIVE

Copy sent to Castle Mountain Owners Association,
Garden Valley, ID.

NOTE:

- a) Not more than two (2) representatives for service of documents may be designated on a protest. If this protest is signed by more than one person without identifying the representative(s) for service of documents, the hearing officer may select the person(s) upon whom documents will be served.
- b) A protestant is required to timely file a protest with the department together with a \$25.00 protest fee in order for the protest to be considered by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.
-

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by VR Date 8-17-94 Time 11:45 am
\$25.00 fee Receipted by VR # W017934 Date 8-17-94

ARWOOD & B W THROU
HC 76 BOX 4053
GARDEN VALLEY, ID. 83622

1 PROTEST TO CASTLE MT.
DECERTING, WARMS
CREKS, NORTH FORK
TO PRIVATE USE OF
MEMBERS OF CASTLE
MT. SUB. THEY HAVE
BEEN DEVERTING THE
MT FORK TO THE WARMS
SPRINGS CREEK SINCE
THE 7-1-94. THEY
DROVE THE MT. FORK DOWN
TO NOTHING, AND ON
8-2-94 SO LOW THEY
KILLED ALL THE
THOUGHT IN THE MT. FORK

Rec'd \$25.00 8-18-94
W017939 By VR

RECEIVED

AUG 18 1994

WATER RESOURCES
WESTERN REGION



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

January 5, 1999

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ARNOLD &/OR JAY WITHROW
HC 76 PO BOX 4053
GARDEN VALLEY ID 83622

Re: Application for Permit No. 65-13526 and Application for Transfer No. 4392 (Water Right No. 65-03238) in the Name of Castle Mountain Creek Owners Association, Inc.

Dear Withrows:

On November 12, 1998, the Idaho Department of Water Resources (IDWR) conducted a prehearing conference regarding protests filed against application for water right no. 65-13526 and application for transfer no. 4392 (water right no. 65-03238) in the name of Castle Mountain Creek Owners Association, Inc. Our records show that you protested water right application no. 65-13526.

The records of IDWR show that you and Gary Bunn protested application for water right no. 65-13526, which seeks a new water right. Our records also show that Carolyn &/or Catherine Goff and Usto Schulz protested application for transfer no. 4392. An attorney for Mr. Schulz and the Goffs appeared at the prehearing conference. It appears that their objections to the application for transfer have or will shortly be resolved.

Neither Gary Bunn nor either of you appeared as protestants to application no. 65-13526. Although there is some correspondence in the file indicating that you may not be interested in continuing your protest, the protests remain in effect. The purpose of this letter is to inquire whether you have any continuing interest to protest the application. Enclosed is a withdrawal of protest form if you no longer want to protest the Castle Mountain application. If you want to continue to protest the application, you should show cause within thirty (30) days of the date of this letter why you did not attend the prehearing conference. Failure to submit the requested information could result in a dismissal of your protest.

Respectfully,

Gary Spackman

GS:st

CC: Castle Mountain Creek Owners Assoc., Inc.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

January 5, 1999

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GARY L BUNN
HC 76 PO BOX 2281
GARDEN VALLEY ID 83622

Re: Application for Permit No. 65-13526 and Application for Transfer No. 4392 (Water Right No. 65-03238) in the Name of Castle Mountain Creek Owners Association, Inc.

Dear Mr. Bunn:

On November 12, 1998, the Idaho Department of Water Resources (IDWR) conducted a prehearing conference regarding protests filed against application for water right no. 65-13526 and application for transfer no. 4392 (water right no. 65-03238) in the name of Castle Mountain Creek Owners Association, Inc. Our records show that you protested water right application no. 65-13526.

The records of IDWR show that you and the Withrows protested application for water right no. 65-13526, which seeks a new water right. Our records also show that Carolyn &/or Catherine Goff and Usto Schulz protested application for transfer no. 4392. An attorney for Mr. Schulz and the Goffs appeared at the prehearing conference. It appears that their objections to the application for transfer have or will shortly be resolved.

Neither you nor the Withrows appeared as protestants to application no. 65-13526. Although there is some correspondence in the file indicating that you may not be interested in continuing your protest, the protests remain in effect. The purpose of this letter is to inquire whether you have any continuing interest to protest the application. Enclosed is a withdrawal of protest form if you no longer want to protest the Castle Mountain application. If you want to continue to protest the application, you should show cause within thirty (30) days of the date of this letter why you did not attend the prehearing conference. Failure to submit the requested information could result in a dismissal of your protest.

Respectfully,

Gary Spackman

GS:st

CC: Castle Mountain Creek Owners Assoc., Inc.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

January 6, 1999

~~*****~~
DIRK KEMPTHORNE GOVERNOR

KARL J. DREHER
DIRECTOR

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

Re: Application for Permit Transfer No. 4392 in the Name of Castle Mountain Creek Owners Association, Inc.

Dear Protestants:

This letter is to acknowledge the withdrawal of protest of the above-referenced application for transfer of water right.

There are still protests remaining on this application, therefore the application will be held in our protest drawer until the protests can be resolved.

If you have any questions please call this office.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

GS:st

CC: Applicant
Castle Mtn. Creek Owners

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

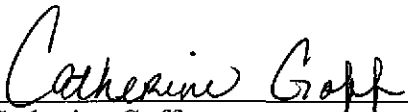
STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 4392 (WATER)
RIGHT NO. 65-2338) IN THE NAME)
OF CASTLE MOUNTAIN CREEK)
OWNERS ASSOC., INC.)
_____)**

WITHDRAWAL OF PROTEST

After consulting with the applicant at a prehearing conference conducted on November 12, 1998, we withdraw our protest to application for transfer no. 4392 in the name of Castle Mountain Creek Owners Association, Inc.

Dated this 12th day of November, 1998.



Catherine Goff



Carolyn Goff



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

January 5, 1999

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

A. J. BOHNER
ATTORNEY AT LAW
PO BOX 1069
BOISE ID 83701

Re: Application for Transfer No. 4392 (Water Right No. 65-03238) in the Name of Castle Mountain Creek Owners Association, Inc.

Dear Mr. Bohner:

At a prehearing conference on November 12, 1998, you delivered a letter to me stating that your client, Usto Schulz, the applicant and Castle Mountain Creek Owners Association, Inc., had conceptually agreed to a withdrawal of protest and that you would shortly be submitting a withdrawal of protest agreement to IDWR. I have not yet received the withdrawal of protest. This letter is an inquiry about the present status of the withdrawal.

If I have not heard from you within thirty (30) days of the date of this letter, I will schedule the matter for hearing.

Sincerely,



Gary Spackman

GS:st

CC: Catherine & Carolyn Goff
Castle Mtn. Creek Owners Assoc., Inc.

BOHNER CHASAN & WALTON, L.L.C.

ATTORNEYS AT LAW

A.J. BOHNER *
ANDREW M. CHASAN
TIMOTHY C. WALTON

*Also admitted in Oregon

PARK CENTER POINTE
1459 TYRELL LANE • PO BOX 1069
BOISE, IDAHO 83701

TELEPHONE
(208) 345-3760

FACSIMILE
(208) 345-0288

McCALL OFFICE
ASPEN VILLAGE
McCALL, IDAHO
(208) 634-4431

November 12, 1998

Mr. Gary Spackman, Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Road
Boise, ID 83705

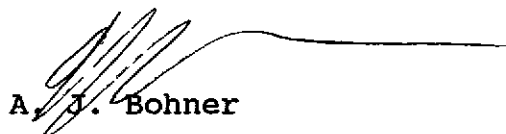
Re: Usto Schulz Protest of Application for Transfer
#4372 for Water Right #65-03238

Dear Mr. Spackman:

This letter is considered to be confirmation of a tentative agreement between Castle Mountain Creek Owners Association, Inc. (CMC) and Usto Schulz regarding the above referenced protest. The agreement, when executed, will provide Mr. Schulz with a right to hot water, subject to certain conditions, and allow Mr. Schulz to withdraw his protest against the above referenced application for transfer. The agreement, in principle, states that CMC agrees to convey to Mr. Schulz 0.06 cfs of water right #65-04002A to hot springs tributary to Warm Springs Creek subject to certain conditions. This is the water source used by CMC for heating their pool and other uses with a point of diversion in the NW/4 SW/4, Section 33, T10N, R4E B.M. The conveyance of 0.06 cfs of water right #65-04002A to Mr. Schulz is contingent upon IDWR's approval of the above referenced application for transfer. Mr. Schulz also agrees to place the water to beneficial use by a date certain. It is the intent of Mr. Schulz upon execution of the agreement to withdraw his protest against the application for transfer #4372.

Since the tentative agreement has been reached by the principles involved Mr. Schulz recommends that the Department of Water Resources take no further action for a period of 15 days in order to allow time for construction of a formal agreement and signing by both parties.

Respectfully submitted,


A.J. Bohner

AJB:kw
cc: client

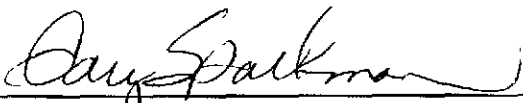
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 65-13526 AND)
APPLICATION FOR TRANSFER OF) AMENDED NOTICE OF CONFERENCE
PERMIT NO. 65-03238 IN THE NAME)
OF CASTLE MOUNTAIN CREEK)
OWNERS ASSOCIATION, INC.)
_____)

Pursuant to a request by the applicant, the conference for the above-referenced matter is hereby changed from Wednesday, November 4, 1998 at 10:00 a.m. to Thursday, **November 12, 1998, at 10:00 a.m.** The location of the conference remains the same at the Idaho Department of Water Resources, upstairs conference room C, 1301 N. Orchard, Boise, Idaho. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

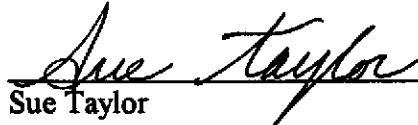
Dated this 1st day of October, 1998



Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of October 1998, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

CASTLE MTN CREEK OWNERS ASSN
HC 76 BOX 4001
GARDEN VALLEY ID 83622

USTO SCHULTZ
3845 SEA ISLAND CT
MERIDIAN ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CATHERINE GOFF
6536 MELBA RD
MELBA ID 83641

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

SHERL CHAPMAN
410 S ORCHARD STE 144
BOISE ID 83705

DAVE SHAW
2309 N MTN VIEW DR STE 174
BOISE ID 83706

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 65-13526 AND)
APPLICATION FOR TRANSFER OF)
WATER RIGHT NO. 65-03238 IN THE)
NAME OF CASTLE MOUNTAIN)
CREEK OWNERS ASSN.)

**NOTICE OF PREHEARING
CONFERENCE**

On June 30, 1994, Castle Mountain Creek Owners Assn Inc. filed with the Department of Water Resources (department) an application for permit to appropriate the public waters of the State of Idaho, and an application for transfer of a water right. The application for permit was protested by Gary L. Bunn and Arnold &/or J.B. Withrow. The application for transfer was protested by Carolyn &/or Catherine Goff and Usto Schultz.

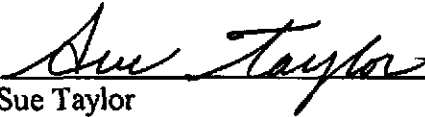
The department has scheduled a conference for the protest to be held on Wednesday, November 4, 1998, at 10:00 a.m. at the Department of Water Resources, upstairs conference room C., 1301 N. Orchard, Boise ID 83706. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 22nd day of September 1998.


Gary Spackman

I hereby certify that on the 23rd day of September 1998, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Senior Secretary

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

CATHERINE GOFF
6536 MELBA RD
MELBA ID 83641

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CASTLE MTN CREEK OWNERS
HC 76 BOX 4001
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

DAVE SHAW
2309 N MTN VIEW DR STE 174
BOISE ID 83706

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

SHERL CHAPMAN
410 S ORCHARD STE 144
BOISE ID 83705

BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for transfer:

- 1) Will the proposed appropriation injure other water rights?
- 2) Will the proposed transfer constitute an enlargement in use of the original right?
- 3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
- 4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof of issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate

and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)	
FOR PERMIT NO. 65-13526 AND)	ORDER CONTINUING
APPLICATION FOR TRANSFER OF)	PRE-HEARING CONFERENCE AND
WATER RIGHT NO. 65-03238 IN THE)	INTERRUPTING APPLICATION
NAME OF CASTLE MOUNTAIN)	PROCESSING
CREEK OWNERS ASSOC., INC.)	
_____)	

On January 12, 1998, the Idaho Department of Water Resources (IDWR) received a request from the Castle Mountain Creek Owners Assoc., Inc. to continue a pre-hearing conference scheduled for January 30, 1998. The letter will be considered a request to interrupt processing of a application as described in Rule 40.d (IDAPA 37.03.08.040.d) of the Water Appropriation Rules which states:

An applicant may request in writing . . . that further processing be interrupted for a period not to exceed six (6) months. The director at his discretion may approve the request unless he determines that others will be injured by the delay or that the applicant seeks the delay for the purpose of speculation, or that the public interest of the people of Idaho will not be served by the delay.

A delay in processing is generally a disadvantage to an applicant. The delay prevents the applicant from using water as proposed. When the use proposed by an application has already been developed, however, the delay may provide a windfall to the applicant because he may attempt to use water without a water right. The use of the water may injure other water users or adversely affect the protestants.

In this case, there is some indication that the use of water by Castle Mountain Creek Owners Assoc., Inc. is already in place. A delay could adversely affect the protestants. Nonetheless, if the applicant can acquire water rights to resolve the protests, a delay may benefit all of the parties.

ORDER

IT IS HEREBY ORDERED that the pre-hearing conference scheduled for January 30, 1998, is CONTINUED.

IT IS FURTHER ORDERED that the processing of application for permit no. 65-13526 and application for transfer of water right no. 65-03238 is interrupted for a period of six (6) months.

IT IS FURTHER ORDERED that another pre-hearing conference will be scheduled for approximately July of 1998.

IT IS FURTHER ORDERED that IDWR will entertain any petition by protestants or other interested parties to seek curtailment of uses of water by Castle Mountain Creek Owners Assoc., Inc. in excess of or inconsistent with water rights authorizing water diversion and use by Castle Mountain Creek Owners Assoc., Inc.

Dated this 21st of January, 1998.

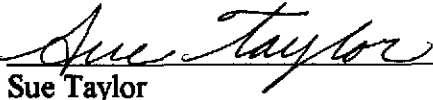


Gary Spackman

GS:st

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of January, 1998, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Senior Secretary

CASTLE MTN CREEK OWNERS ASSN
HC 76 BOX 4001
GARDEN VALLEY ID 83622

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CATHERINE GOFF
6536 MELBA RD
MELBA ID 83641

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

January 6, 1998

To Who It May Concern:

I Don Roberts lease the ranch from the Buzzell Estate. The Estate can not afford to have any more water taken out of the creek because they run short in late summer. In 1997 I had to bring cattle home 60 days early because the grass dried up due to shortage of water. As a result, the Buzzell Estate lost 60 days revenue.

Sincerely Yours,

Donald R Roberts

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

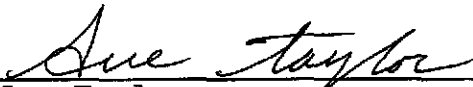
IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 65-13526 AND	)	NOTICE OF CANCELLATION
APPLICATION FOR TRANSFER OF PERMIT)		OF CONFERENCE
WATER RIGHT NO. 65-03238 IN THE	)	
NAME OF CASTLE MOUNTAIN CREEK	)	
<u>ASSOCIATION, INC.</u>	)	

Pursuant to a request by the applicant the conference scheduled for December 5, 1997, in the above-referenced matter is hereby continued until **January 30, 1997**. You will be notified of the place and time at a later date.



Gary Spackman

I hereby certify that on the 3rd day of December, 1997, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

CASTLE MTN CREEK OWNERS ASSN
HC 76 BOX 4001
GARDEN VALLEY ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

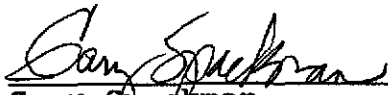
BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 65-13526 AND	)	CHANGE IN CONFERENCE DATE
APPLICATION FOR TRANSFER OF PERMIT)	)	
WATER RIGHT NO. 65-03238 IN THE	)	
NAME OF CASTLE MOUNTAIN CREEK	)	
<u>ASSOCIATION, INC.</u>	)	

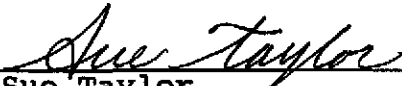
Pursuant to a request by the applicant the conference in the above-referenced matter is hereby changed from Wednesday, November 5, 1997, at 1:30 p.m. to Wednesday, December 3, 1997, at 10:00 a.m. The location of the conference remains at the Idaho Department of Water Resources, upstairs conference rooms A & B, 1301 N. Orchard, Boise, Idaho. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.



Gary Spackman

I hereby certify that on the 27th day of October, 1996, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Senior Secretary

CASTLE MTN CREEK OWNERS ASSN
HC 76 BOX 4001
GARDEN VALLEY ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

BOHNER CHASAN & WALTON
PO BOX 1069
BOISE ID 83701

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

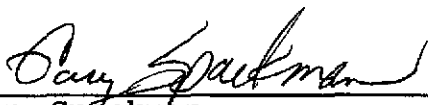
IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 65-13526 AND	)	NOTICE OF CONFERENCE
APPLICATION FOR TRANSFER OF WATER	)	
RIGHT NO. 65-03238 IN THE NAME OF	)	
CASTLE MOUNTAIN CREEK OWNERS	)	
ASSOCIATION, INC.	)	
	)	

On June 30, 1994, Castle Mountain Creek Owners Association, Inc. filed with the Department of Water Resources (Department) an application for permit to appropriate the public waters of the State of Idaho, and an application for transfer of water right. The application for permit was protested by Gary L. Bunn and Arnold &/or J. B. Withrow. The application for transfer was protested by Carolyn &/or Catherine Goff and Usto Schultz.

The Department has scheduled a conference for the protest to be held on Wednesday, November 5, 1997, at 1:30 p.m., at the Idaho Department of Water Resources, downstairs conference room D, 1301 N. Orchard, Boise, Idaho 83705. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 19th day of September, 1997.



Gary Spackman

I hereby certify that on the 19th day of September, 1997, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary/Office Coordinator

CASTLE MTN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. the applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file a petition for reconsideration, exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

The hearing will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 65-13526 AND APPLICATION)
FOR TRANSFER OF WATER RIGHT NO.)
65-03238 IN THE NAME OF CASTLE)
MOUNTAIN CREEK OWNERS ASSN. INC.)

**ORDER RESCINDING ACTION
TO VOID PROTESTS**

Whereas, a conference was held on June 4, 1996 in the matter of protested water right application no. 65-13526 and application for transfer of water right no. 65-03238 and,

Whereas, protestants Gary L. Bunn and Carolyn &/or Catherine Goff were properly notified of the conference but failed to appear and,

Whereas, the department issued via certified mailing dated June 7, 1996 an order to show cause to void the protests of said parties for failure to appear at the June 4 conference, and for which order a response was due by June 26, 1996 and,

Whereas, protestants Bunn and Goffs responded with timely letters, the department should set aside the order to show cause and allow the above parties to remain as protestants in this matter,

IT IS THEREFORE ORDERED that the June 7, 1996 order to show cause is rescinded.

IT IS ALSO ORDERED that protestants Bunn and Goffs retain their standing as protestants in the matter of the protested applications before the department.

Furthermore, said protestants shall be notified by the department regarding the next conference that is tentatively scheduled in late 1996.

Dated this 5th day of July, 1996.

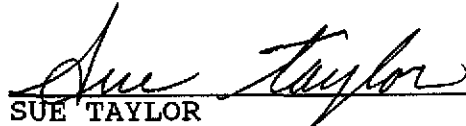


STEVE LESTER

Deputy Manager, Western Regional Office

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of July, 1996, I mailed true and correct copies, postage prepaid, of this document to persons listed below:


SUE TAYLOR
Secretary - Office Coordinator

CERTIFIED MAILING

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

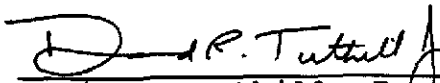
IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 65-13526 AND APPLICATION)
FOR TRANSFER OF WATER RIGHT NO.) ORDER TO SHOW CAUSE
65-3238 IN THE NAME OF CASTLE)
MOUNTAIN CREEK OWNERS ASSN. INC.)

Whereas, a conference was held on June 4, 1996 in the matter of protested water right application no. 65-13526 and application for transfer of water right no. 65-3238 and,

Whereas, protestants Gary L. Bunn and Carolyn &/or Catherine Goff were properly notified of the conference but failed to appear,

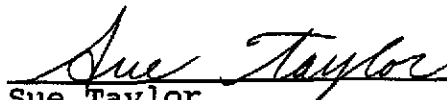
Now, therefore, IT IS HEREBY ORDERED that the protestants, Gary L. Bunn and Carolyn &/or Catherine Goff provide to the department no later than June 26, 1996, any information as to why we should not void their protests. Failure to provide this information will result in voiding of their protests.

Dated this 7th day of June, 1996.


David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of June, 1996, I mailed true and correct copies, postage prepaid, of this document to persons listed below:


Sue Taylor
Secretary - Office Coordinator

CERTIFIED MAIL

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

INTER-DEPARTMENT MEMO

TO: File 65-03238 (Trans 4392)

SUBJECT: _____

FROM: Dave TurnillDATE: 6/4/96

Please see file 65-13526 for information applicable to this file as well.

() For your information

() Response required

Dm

signature

P 478 660 830

US Postal Service

Receipt for Certified Mail

USTO SCHULTZ

HC 76 BOX 4048

GARDEN VALLEY ID 83622

Postage	\$ 32
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2.52
Postmark or Date	

PS Form 3800, April 1995

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier *(no extra charge)*

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article

3 If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number

4 If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article

5 Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811

6 Save this receipt and present it if you make an inquiry.

P 478 660 833

US Postal Service

Receipt for Certified Mail

CASTLE MOUNTAIN CREEK OWNERS
ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

Postage	\$.32
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2.52
Postmark or Date	

PS Form 3800, April 1995

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front)

- 1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*)
- 2 If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article
- 3 If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number
- 4 If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article
- 5 Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811
- 6 Save this receipt and present it if you make an inquiry

Z 111 981 140



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to
CATHERINE &/OR CAROLYN GOFF

JEAN BUZZELL TRUST

PO BOX 876

P.O., State and ZIP Code

NAMPA ID 83653

Postage

\$

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing
to Whom & Date Delivered

Return Receipt Showing to Whom
Date, and Addressee's Address

TOTAL Postage
& Fees

\$ 2.52

Postmark or Date

PS Form 3800, March 1993

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front)**

- 1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge)
- 2 If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article
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- 4 If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article
- 5 Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
- 6 Save this receipt and present it if you make inquiry

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

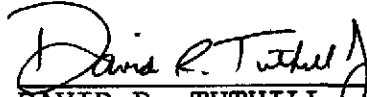
IN THE MATTER OF APPLICATION) FOR PERMIT NO. 65-13526 AND) APPLICATION FOR TRANSFER NO.) 65-3238 IN THE NAME OF CASTLE) MOUNTAIN CREEK OWNERS ASSN. INC.)	)	NOTICE OF CONFERENCE
--	---	----------------------

On June 30, 1994, Castle Mountain Creek Owners Association, Inc. filed with the Department of Water Resources (Department) an application for permit to appropriate the public waters of the State of Idaho, and an application for transfer of water right. The application for permit was protested by Gary L. Bunn and Arnold &/or J. B. Withrow. The application for transfer was protested by Carolyn &/or Catherine Goff and Usto Schultz.

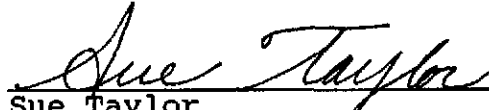
The Department has set the matter of protest for a conference to be held on Tuesday, June 4, 1996, at 10:00 a.m., at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The Department will provide the opportunity for parties to the matter to respond and present information and argument on the issues involved.

Dated this 6th day of May, 1996.


DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 7th day of May, 1996, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary/Office Coordinator

Certified Mail

CASTLE MTN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

GARY L BUNN
HC 76 BOX 2281
GARDEN VALLEY ID 83622

ARNOLD &/OR J B WITHROW
HC 76 BOX 4053
GARDEN VALLEY ID 83622

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

USTO SCHULTZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

**CONFERENCE AND HEARING PROCEDURE
APPLICATION FOR TRANSFER**

ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer

- 1) Will the proposed transfer injure other water rights?
- 2) Will the proposed transfer constitute an enlargement in use of the original right?
- 3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
- 4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1,2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure or at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of the hearing are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file a petition for reconsideration, exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties by written stipulation, may waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

The Idaho World

P O Box 99
Garden Valley, ID 83622
208 462-3487

RECEIVED

AUG 16 1994

WATER RESOURCES
WESTERN REGION

State of Idaho >
>
County of Boise >

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Aug 3, 1994 and ending with the issue of Aug 10, 1994.

Deanna Stevenson

State of Idaho >
>
County of Boise >

On this 15 day of Aug in the year 1994, before me, a notary public, personally appeared Deanna Stevenson 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 he executed the same.

J. Carotte
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6-25-2000

NOTICE OF PROTEST
65-03238 & A65-03238
OSC 32WV

Notice is hereby given that Castle Mountain Creek Owners Assn Inc of Garden Valley, ID has applied to the Department of Water Resources to change the following described water rights pursuant to section 42-222 of Idaho Code.

WATER RIGHTS AS RECORDED

Water Right No.	65-03238
Basis	Decree
Date of Priority	06/01/1883
Source	Warm Springs Creek
Amount	.38 cfs
Use	Irrigation/Domestic/Healing
Point of Div.	NWSE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E NESE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E
Place of Use	1) acres total

WATER RIGHT CLAIMED IN SNAKE RIVER BASIN ADJUDICATION

Water Right No.	A65-03238
Basis	65-03238
Date of Priority	same as above
Source	same as above
Amount	same as above
Use	same as above
Point of Div.	NENWSE, Sec 32, T10N, R04E SWNW, Sec 33, T10N, R04E
Place of Use	same as above

THE FOLLOWING PORTIONS OF WATER RIGHT 65-03238 AND A65-03238 CLAIM A65-03238 TO BE CHANGED AS FOLLOWS:

Water Right No.	65-03238 & A65-03238
Sources	Warm Springs Creek & Unnamed Stream
Use	Irrigation/Domestic
Point of Div.	NESE, Sec 31, T10N, R04E NWSE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E
Place of Use.	S1/2NE, SE, SEC 32, T10N, R04E S1/2NW, SW, SEC 33, T10N, R04E 7 acres total

Any protest against approval of the proposed change of water right adjudication must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$100 on or before August 22, 1994. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson, Director

Published in The Idaho World August 1 and 10, 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 23, 1994

CECIL D. ANDRUS
GOVERNOR

CASTLE MOUNTAIN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

R. KEITH HIGGINSON
DIRECTOR

Re: Application for Transfer of Water Rights Nos. 65-3238
and A65-3238

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "David R. Tuthill, Jr.".

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 23, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

CAROLYN &/OR CATHERINE GOFF
DEAN BUZZELL TRUST
PO BOX 876
NAMPA ID 83653

Re: Application for Transfer No. 65-3238 AND A65-3238 in the
Name of Castle Mountain Creek Owners Assn. Inc.

Dear Protestant:

This office acknowledges receipt of your protest to the approval of the above-referenced application for transfer. The following are the principle items we can consider with respect to either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read 'David R. Tuthill, Jr.'.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Department of Water Resources,

August 19, 1994

My sister & I being (Cathy Buzzell Goff and Carolyn Buzzell Goff) for Buzzell Estate Trust having a water right out of Warm Springs Creek feel that no more water rights should be granted. We are protesting the Castle Mt Owner Associations proposal to change water rights 65-03238 & A65-03238 out of Warm Springs Creek and unnamed creek.

The water is hardly running now. We seem to have a neighbor who thinks we are taking too much water now, because the rocks that direct our water to us are constantly being moved.

What happens if there is a low snow pack again this year. At some point in time I feel the more people using the water could dry up the creek. I am not aware of anyone measuring how much water is going where on the creek.

Don't the water users now have priority over anyone else due to low water years?

Sincerely

Carolyn (Buzzell) Goff

Catherine D. Goff



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 22, 1994

CECIL D. ANDRUS
GOVERNOR

USTO SCHULZ
HC 76 BOX 4048
GARDEN VALLEY ID 83622

R. KEITH HIGGINSON
DIRECTOR

Re: Application for Transfer No. 65-3238 & A65-3238 in the
Name of Castle Mountain Creek Owners Assn Inc.

Dear Protestant:

This office acknowledges receipt of your protest to the approval of the above-referenced application for transfer. The following are the principle items we can consider with respect to either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

A handwritten signature in cursive script, reading 'David R. Tuthill, Jr.'.

DAVID R. TUTHILL, JR. P.E.
Manager, Western Regional Office

DRT:st



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 22, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

CASTLE MOUNTAIN CREEK OWNERS ASSN INC
HC 76 BOX 4001
GARDEN VALLEY ID 83622

Re: Application for Transfer of Water Rights No. 65-3238

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. R. Tuthill, Jr.', written over the typed name.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure

RECEIVED

AUG 17 1994

WATER RESOURCES
WESTERN REGION

USTO SCHULZ
HC 76 BOX 4048
GARDEN VALLEY, ID 83622

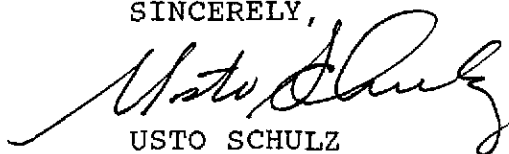
DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

THIS IS AN OBJECTION TO THE CASTLE MOUNTAIN CREEKS OWNERS
ASSOCIATION PROPOSED CHANGE TO WATER RIGHT 65-03238 AND A65-
03238 AS ADVERTISED IN THE IDAHO WORLD 8/3 AND 8/10.

I HAVE ARRANGED WITH ANTHONY BOHNER, ATTORNEY, TO REPRESENT ME
AND OTHERS NAMED IN CLAIM A65-03238. A SUGGESTED RESOLUTION WILL
BE PRESENTED AFTER A DETAILED EXAMINATION AND ANALYSIS BY
HYDROLOGIST SHERL CHAPMAN.

PROTEST FEE OF \$ 25.00 ENCLOSED.

SINCERELY,



USTO SCHULZ
8/15/94

CC CASTLE MOUNTAIN BOARD
ANTHONY BOHNER

*Rec'd \$25-
8-17-94
VR*

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: 4017533

Date: 8/17/1994
Time: 11:45:02

Received
From: SCHULZ, USTC

Type of Payment	Program A cct	Amount
PROTEST FEE 65-03238	62103 229 21 1155	25.00

Total

\$25.00

CHECK 0618

Region: WESTERN

Signature: V. Robinson

NOTICE OF PROPOSED CHANGE OF
WATER RIGHT NO.
65-03238 & A65-03238

Notice is hereby given that Castle Mountain Creek Owners Assn Inc of Garden Valley, ID has applied to the Department of Water Resources to change the following described water rights pursuant to section 42-222 of Idaho Code.

WATER RIGHTS AS RECORDED

Water Right No.	65-03238
Basis	Decree
Date of Priority	06/01/1883
Source	Warm Springs Creek
Amount	.38 cfs
Use	Irrigation/Domestic/Heating
Point of Div.	NWSE, Sec 32, T10N R04E NWSW, Sec 33, T10N R04E
Place of Use	NESE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E 11 acres total

WATER RIGHT CLAIMED IN SNAKE RIVER BASIN ADJUDICATION

Water Right No.	A65-03238
Basis	65-03238
Date of Priority	same as above
Source	same as above
Amount	same as above
Use	same as above
Point of Div.	NENWSE, Sec 32, T10N, R04E SWNWSW, Sec 33, 10N, R04E
Place of Use	same as above

THE FOLLOWING PORTIONS OF WATER RIGHT 65-03238 AND
ADJUDICATION CLAIM A65-03238 TO BE CHANGED AS FOLLOWS

Water Right No.	65-03238 & A65-03238
Sources	Warm Springs Creek & Unnamed Stream
Use	Irrigation/Domestic
Point of Div.	NESE, Sec 31, T10N, R04E NWSE, Sec 32, T10N, R04E NWSW, Sec 33, T10N, R04E
Place of Use.	S1/2NE, SE, Sec 32, T10N, R04E S1/2NW, SW, Sec 33, T10N, R04E 7 acres total

Any protest against approval of the proposed change of water right application must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$25 on or before August 22, 1994. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson, Director

Published in the Idaho World on ^{Aug 3} July 20 and ¹⁰ 27, 1994.

Paper error