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Should questions arise during the processing of this application please contact:
Steven R. Hannula - ERO Resources Corp. (208) 373-7983

FEB 07 2005

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT AMENDED
Part 1

Name of applicant Warm Springs Ditch Co. c/o Hoff Companies Inc.

Phone 208-884-2002

Post Office address 280 Corporate Dr., Ste. 200, Meridian, Idaho 83642

A. Purpose of Transfer

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes: To identify 13 acres converted from irrigation to pond area and to mitigate potential impacts resulting from companion Application for Permit.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>63-0192</u>	<u>06-01-1876</u>	<u>2.24 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>4.92 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>0.39 cfs</u>	<u>Irrigation</u>	<u>3-1 to 11-15</u>
<u>63-0192</u>	<u>06-01-1876</u>	<u>11.2*</u>	<u>Aesthetic Storage</u>	<u>3-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>24.6*</u>	<u>Aesthetic Storage</u>	<u>3-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>1.9*</u>	<u>Aesthetic Storage</u>	<u>3-1 to 11-15</u>
<u>63-0192</u>	<u>06-01-1876</u>	<u>0.06 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>
<u>63-19425</u>	<u>06-01-1882</u>	<u>0.14 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>
<u>63-216C</u>	<u>06-01-1889</u>	<u>0.01 cfs</u>	<u>Diversion to Storage</u>	<u>3-1 to 11-15</u>

2. Total amount of water being transferred 7.76 cubic feet per second and/or 37.8 acre-feet per annum.

*No volumes recommended to SRBA court. Diversion to storage will provide the 37.8 afa needed to mitigate evaporative losses incurred by the 13 acres of ponds. Only 0.21 cfs are being transferred so only a \$250 filing fee applies.

3. Source of water Boise River tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	5	3N	2E	Ada	
6		SE	NW	22	4N	1E	Ada	

5. Lands irrigated or place of use: 449 acres of irrigation and 13 acres* of Aesthetic Storage within the service area boundary.

Twp	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	1E	19	X	X	X	X					X	X			X	X			
4N	1E	20			X	X		X	X	X	X	X			X	X			
4N	1E	21			X	X			X	X	X	X			X	X			

Total acres 449 acres in 484 acre PPU

PART 1

6. General Information:

- a. Description of diversion system Diversion from the Boise River into canals (Thurman Mill and Warm Springs), ponds, a perforated pipe collector gallery, pumping stations, and sprinkler system irrigation.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? XX 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 service area boundary for Warm Springs Ditch Co. was defined during the IDWR review and recommendation to the SRBA court.
- d. Remarks: See attached

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 _____, 20 _____

PART 2 (63-192)

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 0.06 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)

Amount 11.2 ac-ft for AESTHETIC STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)

2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	A																
		20			A				A	A					A	A			

Total acres 13

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

1. Amount 2.24cfs for IRRIGATION purposes from 3-1 to 11-15
(cfs/ac-ft)

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

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

2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	X	X	X	X													
		20			X	X		X	X	X	X	X			X	X			
		21			X	X			X	X	X	X			X	X			

Total acres 449 acres in 484 acre PPU

PART 2 (63-19425)

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 0.14 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)Amount 24.6 ac-ft for AESTHETIC STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	A																
		20			A				A	A					A	A			

Total acres 13**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*1. Amount 4.92cfs for IRRIGATION purposes from 3-1 to 11-15
(cfs/ac-ft)Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	X	X	X	X													
		20			X	X		X	X	X	X	X			X	X			
		21			X	X			X	X	X	X			X	X			

Total acres 449 acres in 484 acre PPU

PART 2 (63-216C)

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 0.01 cfs for DIVERSION TO STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)

Amount 1.9 ac-ft for AESTHETIC STORAGE purposes from 3-1 to 11-15
(cfs/ac-ft)

2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	A																
		20			A				A	A					A	A			

Total acres 13

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

1. Amount 0.39 cfs for IRRIGATION purposes from 3-1 to 11-15
(cfs/ac-ft)

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

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

2. Points of Diversion: NO CHANGE

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
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	19	X	X	X	X													
		20			X	X		X	X	X	X	X			X	X			
		21			X	X			X	X	X	X			X	X			

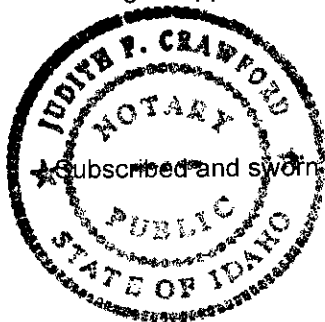
Total acres 449 acres in 484 acre PPU

PART 3

B. CHANGES IN NATURE OF USE N/A

- | 1. | New Nature of Use | Amount
(cfs/ac-ft) | Hours/days/year | Period of Use |
|----|-----------------------------|-----------------------|-------------------|---------------------|
| | <u>Aesthetic storage</u> | <u>37.8</u> | <u> </u> | <u>3-1 to 11-15</u> |
| | <u>Diversion to storage</u> | <u>0.21</u> | <u> </u> | <u>3-1 to 11-15</u> |
2. Quantity and quality of return flows and location of discharge: None
3. Describe effects on other water uses resulting from the proposed change: The existing water rights underlying the ponds are changed to aesthetic storage and diversion to storage where the evaporation losses from the ponds are equivalent to the losses associated with irrigation of the same land. The ponds comprise a total of 13 acres at an average depth of 7 feet.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.



[Signature]
(Signature of Applicant)
Subscribed and sworn before me this 7th day of February, 2005.

Judith P. Crawford
(Notary Public)

My commission expires 12/10/2010

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and attachments

Received by g *Date 2/7/05 Protest filed by

Prelim. check by g Fee \$490 (original fee paid)

Receipted by KG Date 9/20/02

Published in Idaho Statesman Copies of protest forwarded by

Pub. Dates 1-15 + 22-1 Hearing held by Date

Watermaster recommendation requested on Recommended for ☐ approval ☐ denial

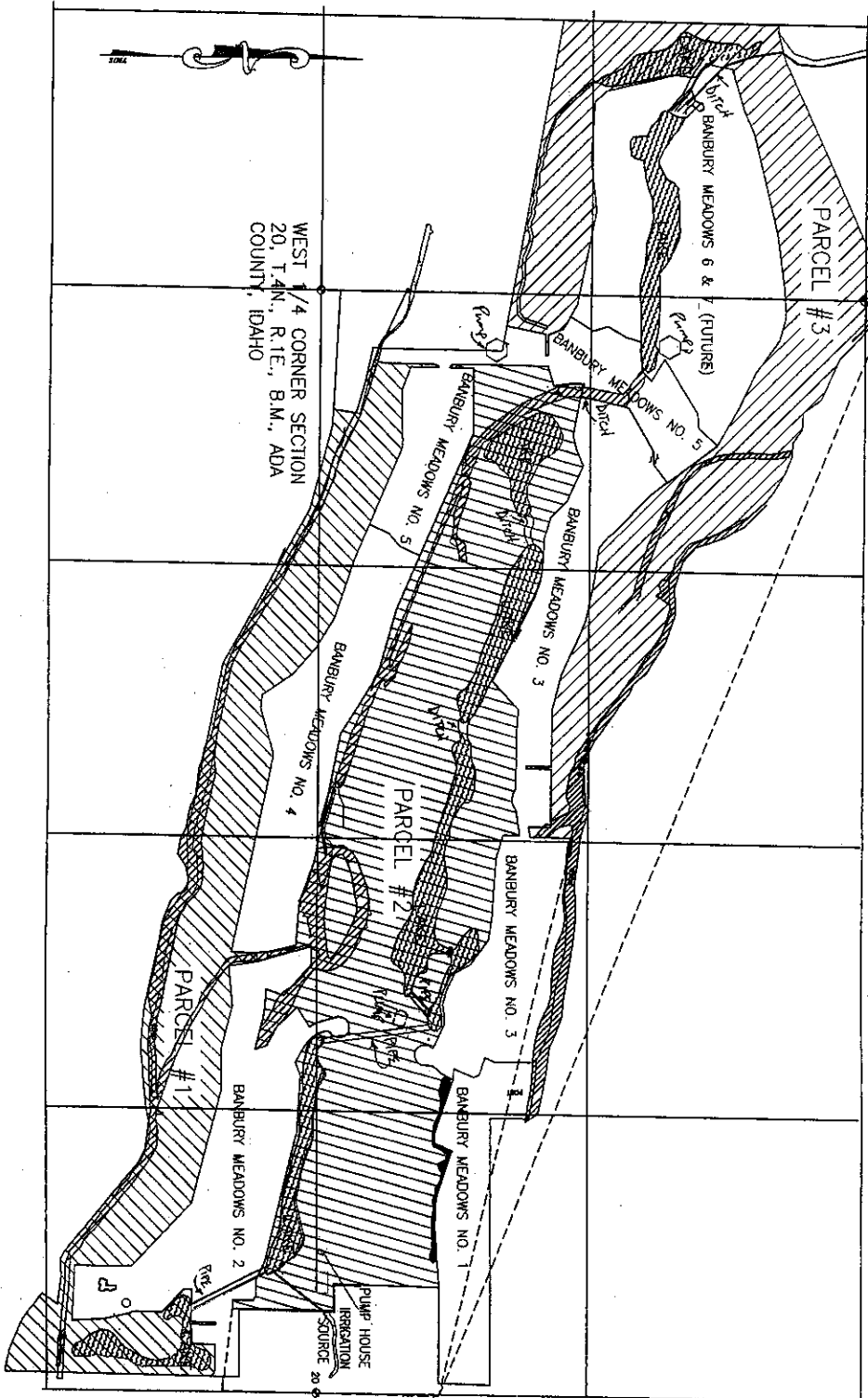
 rec'd. by

Copy of transfer sent to lien holder

* original x-fer received 9/20/02
amended x-fer received 2/7/05

BANBURY MEADOWS GOLF COURSE PLACE OF USE

NORTHWEST CORNER OF SECTION
20, T.4N., R.1E., B.M., ADA
JOPUN MOORS NATURE PARK
FUTURE
IDAHO COUNTY, IDAHO



WEST 1/4 CORNER SECTION
20, T.4N., R.1E., B.M., ADA
IDAHO COUNTY, IDAHO

EAST 1/4 CORNER SECTION
20, T.4N., R.1E., B.M., ADA
IDAHO COUNTY, IDAHO

SCANNED

OCT 20 2003

JOHNSON ENGINEERING
FEB. 5, 2003

ATTACHMENT A

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FEB 07 2005

WATER RESOURCES
WESTERN REGION

**Remarks for
Application for Transfer
In the Name of Warm Springs Ditch Company**

Introduction

The amended application for transfer proposes to change the nature of use of that portion of Warm Springs Ditch Company (Warm Springs) water rights represented by 13 shares of Warm Springs stock owned by Banbury Meadows LLC. Each Warm Springs share represents the right to delivery water to 1 acre of land, as and when water is available during the irrigation season, subject to conveyance losses and pro rata reductions among Warm Springs shareholders in times of shortage.

The current authorized and claimed use of water right for Warm Springs is comprised of a number of claims. Each water right claim is included in this transfer. In 2004, Warm Springs Ditch Co. filed a claim (63-31728) for Waste Water tributary to the Boise River that historically had been delivered via Warm Springs Canal per court order. However, IDWR ultimately recommended to disallow this claim and place the water under the ownership of Drainage District 4 with remarks that 2.55 cfs be credited for delivery to the same Warm Springs Canal (recommendation 63-31936).

Banbury Meadows LLC has applied to the Department for a permit to appropriate for Aesthetic Storage 58.5 acre-feet of ground water that would accrue to shallow excavated ponds. Accrued ground water will not be diverted from storage. The ponds have a total surface area of 13 acres. These 13 acres are within the Warm Springs service area and historically have been irrigated with water delivered by Warm Springs Ditch Co. This transfer application proposes to change the nature of use of the water rights historically used to irrigate the 13 acres of land within the Warm Springs service area that were converted from irrigation to ponds.

Pond Evaporation

By subtracting the annual precipitation (12.6 inches per year at Boise airport) from the Free Water Surface (FWS) evaporation estimate from NOAA (NOAA Technical Report

NWS 34, 1982), net evaporation can be approximated. FWS evaporation is estimated by multiplying the Pan Evaporation (63.97 in/yr) by the Pan Coefficient (0.7). FWS evaporation is approximately 45 in/yr. Therefore, net evaporation from the pond system is estimated to be 32.4 in/yr ($45 \text{ in/yr} - 12.6 \text{ in/yr} = 32.4 \text{ in/yr}$).

The attached affidavit indicates that pasture grass has historically been irrigated on this property prior to development. The average consumptive irrigation requirement (CIR) for pasture grass is 887 mm/season (2.91 ac-ft/ac, 34.9 in/yr) (Allen & Brockway, 1983) (attached). Therefore the consumptive use of the Warm Springs water rights from 13 acres during the irrigation season due to evapotranspiration is estimated to be 37.8 afa ($2.91 \text{ ft/yr (Allen Brockway, 1983)} * 13 \text{ acres} = 37.8 \text{ afa}$).

The difference between the net pond evaporation (32.4 in/yr) and the CIR (34.9 in/yr) shows that the ponds will actually consume less water than the pasture grass.

The 37.8 afa of water will be maintained for mitigation by keeping 13 shares of Warm Springs water in the ponds as part of the flow-through system. By maintaining the water in the ponds, this water is then available to recharge the shallow ground water system as compensation for evaporation off the pond's surfaces.

Based on the above discussion and assumptions, this transfer will not result in an enlargement of the water right or cause injury to other water rights because the number of acres to which the water right will be applied, and the net consumptive use of water, will not increase.

The transfer proposes to apply all water under the affected portion of the Warm Springs water rights to recognized beneficial uses, and will continue beneficial use of the water right within the Warm Springs service area for its shareholders. The transfer also will facilitate the use of ground water without depleting the resource. For these reasons, the transfer is in the public interest.

Proposed Mitigation

The following mitigation is offered to satisfy IDWR's concerns involving new ground water appropriation in the Treasure Valley and thereby allowing processing of this

application for permit to proceed out of sequence from the backlog of applications now pending in the basin.

To mitigate the net evaporation from the 13-acre pond system, the applicant will retain 13 shares of Warm Springs Ditch Co. on the property for mitigation purposes. The applicant understands that these shares are to remain with the property and not be used in a different Place of Use. The mitigation plan will be in the form of a letter to IDWR Western Region from the applicant identifying the shares of Warm Springs associated with the pond surface area (13 acres) that will be used for mitigation to allow the application for permit to be processed immediately and out of filing sequence. The plan will clearly set forth for approval of IDWR that commitment of the shares for mitigation of use of water by storage of ground water in the pond, without diversion of water under the shares, is a continuing beneficial use of the water represented by the shares. The plan will specify the continuation of the payment of assessments to the Warm Springs Ditch Company.



ARTICLES OF INCORPORATION

(Non-Profit)

(Instructions on back of application)

The undersigned, in order to form a Non-Profit Corporation under the provisions of Title 30, Chapter 3, Idaho Code, submits the following articles of incorporation to the Secretary of State.

Article 1: The name of the corporation shall be:

Warm Springs Ditch Company

Article 2: The purpose for which the corporation is organized is:

A Water users association

Article 3: The street address of the registered office is: 280 E. Corporate Dr. Suite #200

and the registered agent at such address is: Brian Hoff

Article 4: The board of directors shall consist of no fewer than three (3) people. The names and addresses of the initial directors are:

Brian Hoff 7885 N. Vue Estates Rd. Meridian, ID 83642

Bob Moore 2745 S. Eagle Rd. Eagle, ID 83616

June Walters 1210 W. Joplin Lane Meridian, ID 83642

Article 5: The name(s) and address(es) of the incorporator(s):

Brian Hoff 7885 N. Vue Estates Rd. Meridain, ID 83642

Article 6: The mailing address of the corporation shall be:

280 E. Corporate Dr #200

Article 7: The corporation (☒ does ☐ does not) have voting members.

Article 8: Upon dissolution the assets shall be distributed:

Ratably between members

Signatures of all incorporators:

Typed Name: Brian Hoff

Typed Name: _____

Typed Name: _____

Typed Name: _____

Typed Name: _____

Customer Acct #:

(if using pre-paid account)

Secretary of State use only

g:\corp\forms\corp forms\articlesofincprofit.p65
Revised 07/2002

SCANNED

OCT 20 2003

ATTACHMENT C

WARM SPRINGS DITCH COMPANY
280 E. Corporate Dr. Suite 200
Meridian, Idaho 83642

July 16, 2002

TO: DEPARTMENT OF WATER RESOURCES

As owner of the following Water Rights:

Identification Number: 63-192

~~63-2387A~~

63-19425

63-216C

SRH

SRH

63-31728

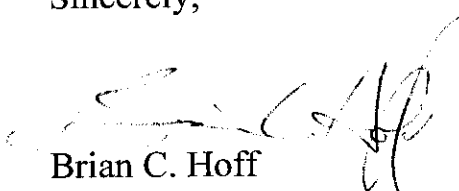
Source: Boise River

Tributary To: Snake River

Warm Springs Ditch Company is aware of and concurs with the redistribution of use and application for transfer of Hoff Companies portion of these water rights.

Warm Springs Ditch Company delivers water for all described properties and assesses landowners for these water deliveries.

Sincerely,


Brian C. Hoff

President, Warm Springs Ditch Company

SCANNED

OCT 20 2003

ATTACHMENT D

SEP. -02' 03(TUE) 08:40 HOFF C ANIES, INC

TEL:208884.115

P. 002

AFFIDAVIT OF BRIAN HOFF,**President of Warm Springs Ditch Company**STATE OF IDAHO)
:
COUNTY OF ADA)

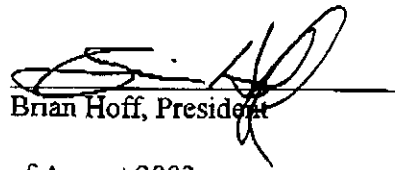
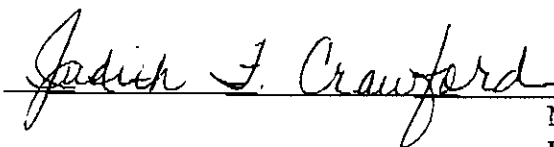
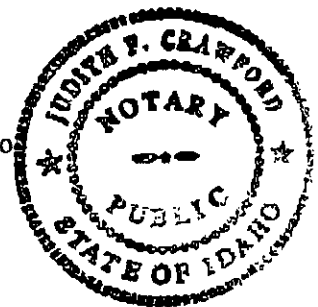
I, Brian Hoff, the undersigned, having been duly sworn on an oath deposes and says:

1. I am currently the president of Warm Springs Ditch Company. The information contained in this statement is true to the best of my knowledge and belief.
2. Approximately 484 acres of land located within sections 19, 20, and 21 of T4N, R1E, comprise the service area of the Warm Springs Ditch Company.
3. That portion of land that is currently developed as residential and golf course was previously used and irrigated primarily for pasture grass.
4. Warm Springs Ditch Company delivered the water used to irrigate the pasture grass.

FURTHER YOUR AFFIANT SAITH NAUGHT

Dated this 28th day of August 2003

BRIAN HOFF


Brian Hoff, PresidentSubscribed and sworn before me this 28th day of August 2003.Notary Public
Residing at Boise, IdahoMy commission expires 12/9/04

SCANNED

OCT 20 2003

ATTACHMENT E