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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5241
WATER RIGHT NO(S). 01-00156/01-00202

This is to certify that: **POPLAR IRRIGATION DISTRICT**
C/O KYM FERGUSON
15533 E RIRIE HWY
RIRIE ID 83443

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>
Right No. 01-00156 :			
IRRIGATION	04/01 to 10/31	24.00 CFS	3479.2 AF
Priority: 06/01/1902			
Right No. 01-00202 :			
IRRIGATION	04/01 to 10/31	12.00 CFS	3479.2 AF
Priority: 01/22/1916			
TOTAL:		* 36.00 CFS	* 3479.2 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
SNAKE RIVER, SOUTH FORK	SNAKE RIVER

LOCATION OF POINT(S) OF DIVERSION: Lot 1(SESW), Sec. 5, Township 03N, Range 41E
BONNEVILLE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	40E	1	SWNE 30.0	SENE 30.0	NWNW 5.0	
			SWNW 40.0	SENW 30.0	NESW 40.0	
			NWSW 40.0	SWSW 40.0	SESW 40.0	
			NESE 40.0	NWSE 40.0	SWSE 40.0	
			SESE 32.0			447.0
		2	SENE 40.0	NESW 40.0	NWSW 28.0	
			SESW 17.0	NESE 12.0	NWSE 17.0	
			SWSE 28.0	SESE 25.8		207.8
		12	NWNE 8.0	NENW 14.0	NWNW 6.0	28.0
41E		6	NWNE 26.0	SWNE 3.0	NENW 40.0	
			NWNW 40.0	SWNW 26.0	SENW 20.0	
			NWSW 15.0	SWSW 5.0		175.0
04N	41E	31	SWSW 10.0	SESW 2.0		12.0

total number of acres irrigated: * 869.8

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WATER RIGHT NO(S). 01-00156/01-00202

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
2. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.
- * 6. Rights 01-00156 and 01-00202 when combined shall not exceed a total diversion rate of 36.00 cfs, a total annual maximum diversion volume of 3479.2 af at the field headgate, and the irrigation of 869.8 acres.
7. Prior to use of water for irrigation purposes under Rights 01-00156 and 01-00202, the right holder shall install a hydromet compatible measuring device to measure the amount of water diverted and shall annually report the diversion to the department. The right holder shall obtain prior approval from the department of the type of measuring device to install.
8. Approval of Transfer 5241 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Dated this 15th day of

September, 1998

[Signature]
Chief, Water Allocation Bureau

FILED

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT,
STATE OF IDAHO, COUNTY OF FREMONT

ABERDEEN-SPRINGFIELD CANAL COMPANY, et als,

Plaintiff.

vs

HENRY EAGLE, WATERMASTER DISTRICT # 36

Defendant,

SUPPLEMENTAL DECREE

March 12, 1969

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01-I

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF

IDAHO, IN AND FOR THE COUNTY OF FREMONT

ABERDEEN-SPRINGFIELD CANAL COMPANY, a corporation.
 REBECCA HOLDEN, a widow. BLACKFOOT IRRIGATION CO., a
 corporation; FRANKELL DITCH CO., a corporation; BUTLER
 ISLAND CANAL CO., a corporation; BUTTE & MARKET LAKE
 CANAL CO., a corporation; CLARK & EDWARDS CANAL CO.,
 a corporation; CORBETT SLOUGH DITCH CO., a corporation;
 DANSKIN DITCH CO., a corporation; DILTS IRRIGATION CO.,
 LTD., a corporation; DEWEY FOX; HARRISON CANAL &
 IRRIGATION CO., a corporation; MARVON M. NEWBY; IDAHO
 IRRIGATION DISTRICT, an irrigation district organized
 and existing under the laws of the State of Idaho;
 MARVIN M. JOHNSON; WILLIAM S. HOLDEN; TED BLOSCHE
 MARVEL JACKSON and V. E. HIER; LABELLE IRRIGATION
 CO., a corporation; LIBERTY PARK IRRIGATION CO., a
 corporation; LONG ISLAND IRRIGATION CO., a corporation;
 ROBERT D. MACKAY; JOHN L. NELSON, ADRIAN NELSON, ERVEN
 SCOTT, VELMA ANDERSON and LAURA ANDERSON; NEW SWEDEN
 IRRIGATION DISTRICT, an irrigation district organized
 and existing under the laws of the State of Idaho;
 CARL JOHNSON; UTAH-IDAHO SUGAR CO., a corporation;
 PROGRESSIVE IRRIGATION DISTRICT, a corporation; REID
 CANAL CO., a corporation; RIVERSIDE DITCH CO., a cor-
 poration; SHATTUCK IRRIGATION CO., a corporation; SAM
 SAKAGUCHI; SNAKE RIVER VALLEY IRRIGATION DISTRICT, an
 irrigation district organized and existing under the
 laws of the State of Idaho; TEXAS SLOUGH IRRIGATING
 CANAL CO., a corporation; R. DUWAYNE SCOTT; WEST
 LABELLE IRRIGATION CO., a corporation; ENTERPRISE
 IRRIGATION DISTRICT, an irrigation district organized
 and existing under the laws of the State of Idaho;
 RALPH D. MILLER; FARMERS FRIEND CANAL CO., a corpora-
 tion; SALEM UNION CANAL CO., a corporation; BOGIN
 IRRIGATING CO., a corporation; INDEPENDENT CANAL CO., LTD.
 a corporation; JAMES A. CROFT; PINCOCK-BYINGTON CANAL
 CO. a corporation; PINCOCK-CARNER DITCH COMPANY, a
 corporation; FALL RIVER IRRIGATION CO., a corporation;
 ST. ANTHONY UNION CANAL CO., a corporation, CONSOLIDAT-
 ED FARMERS CANAL COMPANY, a corporation; WILFORD IRRI-
 GATION & MFG. CO., a corporation; D. F. RICHARDS; D.V.
 HAGENBARTH; AL FRAZIER; SAUREY-SOMMER DITCH by LeRoy
 Saurey; FARMERS OWN DITCH CO., a corporation; TETON
 IRRIGATION & MFG. CO., a corporation; GEORGE BAUER,
 BENJAMIN STEWART, ANDREW STEWART, ANNIE WRIGHT, BOYD
 HOLLIST and ALICE P. BIRCH, operating as Stewart Canal;
 BURLEY IRRIGATION DISTRICT, an irrigation district
 organized and existing under the laws of the State of
 Idaho; MINIDOKA IRRIGATION DISTRICT, an irrigation
 district organized and existing under the laws of the
 State of Idaho; MILNER LOW-LIFT IRRIGATION DISTRICT,
 an irrigation District organized and existing under the
 laws of the State of Idaho; TWIN FALLS CANAL COMPANY,
 a corporation; CLARENCE H. TILLEY; WILLIAM KENDALL;
 FALLS IRRIGATION DISTRICT, an irrigation district
 organized and existing under the laws of the State
 of Idaho; A & B IRRIGATION DISTRICT, an irrigation
 district organized and existing under the laws of
 the State of Idaho, OTIS ORTEN; AMERICAN FALLS RESER-
 VOIR DISTRICT, an irrigation district organized and
 existing under the laws of the State of Idaho.

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That the Peoples Canal & Irrigation Co. (The Peoples Canal & Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 10,000 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

West Side of Snake River at a point near the Southeast Quarter of Section 27, Township 1 South, Range 36 E.B.M., in the County of Bingham, State of Idaho.

Lands to Which Appurtenant

60,000 acres of land, lying in the County of Bingham, State of Idaho, and contained in Townships 1,2,3,4, and 5 South, Range 32 East B.M., also Townships 1, 2, 3 and 4 South, Range 33 East B.M., also Townships 1, 2,3, and 4 South, Range 34 East B.M., also Townships 1 and 2 South Range 35 East B.M. and Township 2 South, Range 36 E.B.M.

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T. POPLAR IRRIGATION DISTRICT

That the Poplar Irrigation District (Poplar Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 600 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Order Amending and Correcting, the Woodville Decree, dated March 10, 1931).

Point of Diversion:

South side of the South Fork of Snake River near the rush bed so called, a short distance down stream from the point where the river leaves the last canyon at the headgate of the canal of said district formerly known as the J.H.Riley Ditch.

Lands to Which Appurtenant

The South half ($S\frac{1}{2}$) and the South half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) of Section One (1): The Southwest Quarter ($SW\frac{1}{4}$); the South half of the Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$) and the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) of Section Two (2) : the North half of the Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}$) and the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$) of Section Twelve (12), all in Township Three (3) North of Range Forty. (40) E.B.M.

The Northwest Quarter ($NW\frac{1}{4}$) and the West half of the Northeast Quarter ($W\frac{1}{2}NE\frac{1}{4}$); the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) ; the North half of the Southwest Quarter ($N\frac{1}{2}SW\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$) of Section Six (6) all in Township Three (3) North of Range Forty-one (41) E.B.M.

MEMORANDUM

TO: Files 01-00156 & 01-00202

FROM: Pam Skaggs³⁸/State Office

SUBJECT: Transfer 5241

DATE: September 10, 1998



Transfer 5241 changes the point of diversion under Rights 01-00156 and 01-00202. The original point of diversion sustained flood damage to the headgates and canal.

Season of use and diversion volume were adjusted to current standards. The place of use was specifically identified describing the same 869.8 acres claimed in the SRBA. Recommended conditions include combined right limits, watermaster control, measuring & reporting, irrigation overlap and standard transfer conditions.

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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 twenty-one (21) 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 twenty-one (21) 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.

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. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

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CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

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.

Section 67-5246(5), Idaho Code, provides as follows:

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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this 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:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. 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. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: FILE 01-00202

FROM: PAM SKAGGS

RE: TRANSFER # 5241

DATE: 4-14-98

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 01-00156.

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MEMORANDUM

TO: FILE 01-00202

FROM: PAM SKAGGS

RE: TRANSFER # 5141

DATE: 10-3-97

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 01-00156.

Transfer Withdrawn 4-2-98. 38

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