



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 8, 2001

M TODD PERKES
RT 1 BOX 9
MOORE ID 83255

RE: Preliminary Order Correcting Transfer #5661 (34-7035A, 34-7122A and overlapping rights 34-7096A, 34-7097A and 34-7223) and Notice of Administrative Proceeding (NAP)

Dear Mr. Perkes:

The Idaho Department of Water Resources (IDWR) received a Preliminary Order Correcting a Transfer for the above referenced water right(s).

In response to the Order, this office is sending the enclosed NAP to the SRBA Court and other parties listed on page 2 of the form. The intent of this mailing is to notify those parties of the requested change.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Cheri Vandermeulen
Records Clerk

Enclosure

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

Water Rights: 34-7035A, 34-7122A
AND OVERLAPPING RIGHTS
34-7096A, 34-7097A AND 34-7223

NOTICE OF ADMINISTRATIVE
PROCEEDING

IDWR has received an application for an Administrative Proceeding for the above water right(s).

The Administrative Proceeding contemplates a change in the water right(s) as indicated below:

- ☐ Substitution of Party (waiting for documentation)
- ☐ Substitution of Party/Split Water Right
- ☒ I.C. § 42-222 transfer, **Preliminary Order Correcting Transfer Approval 5661**
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use

IDWR projects the Administrative Proceeding shall be completed no later than: January 7, 2002.

DATED: 11/08/01


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on Nov. 9, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
M TODD PERKES
RT 1 BOX 69
MOORE ID 83255
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Cheri Undermoe

Signature of person or attorney mailing the form

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF TRANSFER)
NO. 5661 IN THE NAME OF)
M. TODD PERKES)
_____)

**PRELIMINARY ORDER
CORRECTING TRANSFER
APPROVAL**

FINDINGS OF FACT

1. On January 10, 2000, the Idaho Department of Water Resources (Department) received application for Transfer No. 5661 (transfer) in the name of M. Todd Perkes (applicant). The purpose of the transfer was to add a point of diversion to Water Right Nos. 34-7035A and 34-7122A for irrigation within a 561-acre place of use.
2. Water Right License No. 34-7035 was issued by the Department on May 16, 1980 in the amount of 5.62 cfs for irrigation of 417 acres. The transfer application proposed a change to a portion (designated part A) of the license in the amount of 0.64 cfs, which is sufficient to irrigate 47.5 acres under the license.
3. Water Right License No. 34-7122 was issued by the Department on May 16, 1980 in the amount of 8.62 cfs for irrigation of 431 acres. The transfer application proposed a change to a portion (designated part A) of the license in the amount of 4.31 cfs, which is sufficient to irrigate 215.5 acres under the license.
4. On June 6, 2000, the Department approved the transfer with conditions. Condition No. 2 indicated that Water Right No. 34-7122A is limited to the irrigation of 561 acres within the place of use. Condition No. 3 indicated that Water Right Nos. 34-7035A and 34-7122A, when combined, shall not exceed a total diversion volume of 1963.5 acre-feet and the irrigation of 561 acres. Condition No. 4 indicated that the total combined annual volume from all points of diversion under the transfer shall not exceed 1963.5 acre-feet.
5. The Department standard for annual irrigation diversion volume at the field headgate is 3.5 acre-feet per acre at the place of use listed on the transfer application.
6. Condition Nos. 2, 3, and 4, as stated in the transfer approval, provides for more water and acres than originally allowed under the prorated portions being transferred for Water Right Nos. 34-7035 and 34-7122.

CONCLUSIONS OF LAW

1. The transfer approval should accurately describe each established water right as changed by the transfer pursuant to Section 42-222, Idaho Code.
2. The transfer approval incorrectly describes the acreage and annual diversion volume limits of Water Right Nos. 34-7035A and 34-7122A.
3. The Department should correct Condition Nos. 2, 3, and 4 of the transfer approval as follows:

Condition No. 2. Water Right No. 34-7122A is limited to the irrigation of 215.5 acres in a single irrigation season within the authorized 561-acre place of use.

Condition No. 3. Water Right Nos. 34-7035A and 34-7122A when combined shall not exceed a total diversion rate of 4.95 cfs, a total annual maximum diversion volume of 920.5 acre-feet at the field headgate, and the irrigation of 263 acres in a single irrigation season within the authorized 561-acre place of use.

Condition No. 4. The total instantaneous diversion of water from all points of diversion under Transfer No. 5661 shall not exceed 4.95 cfs, nor a total combined annual volume of 920.5 acre feet.

ORDER

IT IS HEREBY ORDERED that the order approving Transfer No. 5661 issued by the Department on June 6, 2000 is CORRECTED as set forth in the amended transfer approval issued in conjunction with this order.

Dated this 5th day of November, 2001.


L. GLEN SAXTON
Chief, Water Allocation Bureau

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT

AMENDED

TRANSFER NO. 5661

This is to certify that: M TODD PERKES
RT 1 BOX 69
MOORE ID 83255

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
34-7035A	AJC/License	04/12/1973	0.64 cfs		47.5	561.0	GROUND WATER
34-7122A	AJC/License	01/16/1976	4.31 cfs		215.5	561.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
34-7035A	NO	YES	NO	NO	NO	NO
34-7122A	NO	YES	NO	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
34-7035A	34-7035A	0.64 cfs	166.3 af	47.5	561.0	N/A	N/A	N/A	N/A	N/A
34-7122A	34-7122A	4.31 cfs	754.3 af	215.5	561.0	N/A	N/A	N/A	N/A	N/A
TOTALS		4.95 cfs	920.5 af	263.0	561.0	N/A	N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 5th day of November, 2001

[Signature]
Chief, Water Allocation Bureau

Page 2 of 5

WATER RIGHT NO. 34-7035A
As Modified by Transfer No. 5661

In accordance with the approval of Transfer No. 67081, Water Right No. 34-7035A is now described as follows.

Right Holder: M TODD PERKES
 RT 1 BOX 69
 MOORE ID 83255

Priority Date: 04/12/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	to 11/01	0.64 CFS	166.3 AF
			0.64 CFS	166.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NESENW Sec. 5 Twp 04N Rge 26E BUTTE County - 436231

GROUND WATER NENWNW Sec. 8 Twp 04N Rge 26E BUTTE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	25E	1	33.0	33.0	33.0	33.0													132.0
04N	25E	25					33.0	33.0	33.0	40.0	40.0	33.0	33.0	39.0	33.0	40.0	39.0	33.0	429.0

Total Acres: 561

CONDITIONS OF APPROVAL

- Right 34-07035A is limited to the irrigation of 47.5 acres in the place of use described above in a single irrigation season.
- Right 34-07122A is limited to the irrigation of 215.5 acres in the place of use described above in a single irrigation season.
- Rights 34-07035A and 34-07122A when combined shall not exceed a total diversion rate of 4.95 cfs, a total annual maximum diversion volume of 920.5 af at the field headgate, and the irrigation of 263.0 acres.
- The total instantaneous diversion of water from all points of diversion under Transfer 5661 shall not exceed 4.95 cfs, nor a total combined annual volume of 920.5 af.
- Approval of Transfer 5661 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

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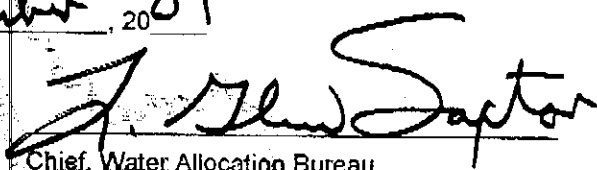
WATER RIGHT NO. 34-7035A
As Modified by Transfer No. 5661

CONDITIONS OF APPROVAL

6. Use of water under this water right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
7. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 5th day of November, 2001


Chief, Water Allocation Bureau

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WATER RIGHT NO. 34-7122A
As Modified by Transfer No. 5661

In accordance with the approval of Transfer No. 67081, Water Right No. 34-7122A is now described as follows.

Right Holder: M TODD PERKES
 RT 1 BOX 69
 MOORE ID 83255

Priority Date: 01/16/1976

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01 to 11/01	4.31 CFS	754.3 AF
		4.31 CFS	754.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NESENW Sec. 5 Twp 04N Rge 26E BUTTE County

GROUND WATER NENWNW Sec. 8 Twp 04N Rge 26E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 25E 1	33.0	33.0	33.0	33.0													132.0
04N 25E 25					33.0	33.0	33.0	40.0	40.0	33.0	33.0	30.0	33.0	40.0	39.0	33.0	429.0

Total Acres: 561

CONDITIONS OF APPROVAL

1. Right 34-07035A is limited to the irrigation of 47.5 acres in the place of use described above in a single irrigation season.
2. Right 34-07122A is limited to the irrigation of 215.5 acres in the place of use described above in a single irrigation season.
3. Rights 34-07035A and 34-07122A when combined shall not exceed a total diversion rate of 4.95 cfs, a total annual maximum diversion volume of 920.5 af at the field headgate, and the irrigation of 263.0 acres.
4. The total instantaneous diversion of water from all points of diversion under Transfer 5661 shall not exceed 4.95 cfs, nor a total combined annual volume of 920.5 af.
5. Approval of Transfer 5661 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Page 5 of 5

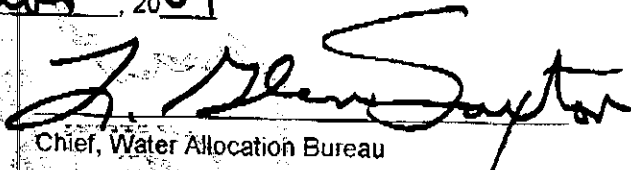
WATER RIGHT NO. 34-7122A
As Modified by Transfer No. 5661

CONDITIONS OF APPROVAL

6. Use of water under this water right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
7. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 5th day of November, 2001


Chief, Water Allocation Bureau

11/28/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 34-7097A
NAME AND ADDRESS: M TODD PERKES
RT 1 BOX 69
MOORE ID 83255

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.580 CFS
276.50 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.0 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 878.5 AF. COMBINED RIGHT NOS.: 34-7096A, 34-7097A, 34-7223

PRIORITY DATE: 01/31/1975

POINT OF DIVERSION: T04N R26E S8 NESWSE Within BUTTE County
T04N R26E S17 NWSNW Within BUTTE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
1.580 CFS
276.50 AFY

PLACE OF USE: IRRIGATION Within BUTTE County

T03N R25E S01 Lot 1 NENE	33.0	T03N R25E S01 Lot 2 NWNE	33.0
T03N R25E S01 SWNE	33.0	T03N R25E S01 SENE	33.0
T04N R25E S25 NENW	33.0	T04N R25E S25 NWNW	33.0
T04N R25E S25 SWNW	33.0	T04N R25E S25 SENW	40.0
T04N R25E S25 NESW	40.0	T04N R25E S25 NWSW	33.0
T04N R25E S25 SWSW	33.0	T04N R25E S25 SESW	39.0
T04N R25E S25 NESE	33.0	T04N R25E S25 NWSE	40.0
T04N R25E S25 SWSE	39.0	T04N R25E S25 SESE	33.0

561 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 514 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-7122A, 34-7035A, 34-7096A, 34-7097A, 34-7223.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 79 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 34.

THE RIGHT HOLDER SHALL MAINTAIN A MEASURING DEVICE AND LOCKABLE CONTROLLING WORKS OF A TYPE APPROVED BY THE DEPARTMENT IN A MANNER THAT WILL PROVIDE THE WATERMASTER SUITABLE CONTROL OF THE DIVERSION.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License
WATER DELIVERED THROUGH THE TIMBERDOME CANAL



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 29, 2001

M TODD PERKES
RT 1 BOX 69
MOORE ID 83255

RE: Amended Transfer #5661 for water right(s) 34-7035A, 34-7122A and overlapping rights 34-7096A, 34-7097A and 34-7223 and Notice of Completed Administrative Proceeding (NCAP)

Dear Mr. Perkes:

On November 5, 2001, the Idaho Department of Water Resources (IDWR) approved Amended Transfer #5661, modifying the above referenced water right. Based on this transfer, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of the water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Cheri Vandermeulen
Records Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

Water Rights: 34-7035A, 34-7122A
AND OVERLAPPING RIGHTS 34-
7096A, 34-7097A AND 34-7223

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☐ Substitution of Party
- ☒ I.C. § 42-222 transfer **AMENDED 5661**
- | | |
|---|--|
| ☐ point of diversion | ☒ place of use |
| ☐ period of use | ☐ nature of use |
| ☐ split of water right | ☐ change in ownership |
| ☐ other | |

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Nov 29, 2001



Signature of IDWR Representative

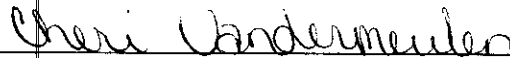
CERTIFICATE OF MAILING

I certify that on NOV. 30, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
M TODD PERKES
RT 1 BOX 69
MOORE ID 83255
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

WILLIAM HOLLIFIELD
HOLLIFIELD & TOLMAN
PO BOX 66
TWIN FALLS ID 83303-0066

JOHN ROSHOLT
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form