

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85037**

This is to certify that: ATARAXIS ACCOUNTING
C/O NANCY KOONCE
PO BOX 1292
TWIN FALLS, ID 83303-1292

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. A summary of the changes is also listed below. 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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
47-7022	WR/DECREED	1/23/1968	0.400 cfs	195.4 af	68.0	269.0	GROUND WATER
47-7803A	WR/LICENSE	3/12/1982	2.500 cfs	N/A	N/A	269.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
47-7022	NO	NO	YES	YES	NO	NO
47-7803A	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
47-7022	47-7022	0.400 cfs	195.4 af	68.0	181.0	N/A	N/A	N/A	N/A	N/A
47-7803A	47-7803A	2.500 cfs	724.0 af	N/A	181.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.900 cfs	N/A	N/A	181.0		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 26th day of November, 2021.



Southern Region Manager

SUPPORT DATA

IN FILE # 47-7022

Transfer No. 85037

WATER RIGHT NO. 47-7803A
As Modified by Transfer No. 85037

In accordance with the approval of Transfer No. 85037, Water Right No. 47-7803A is now described as follows:

Right Holder: JOHN K COURTNEY AND/OR
 DESSIE D COURTNEY
 2527 N 2700 E
 TWIN FALLS, ID 83301

Priority Date: 3/12/1982

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	2.500 cfs	724.0 af
			2.500 cfs	724.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWNWNE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County
GROUND WATER	SENESE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County
GROUND WATER	SWSWSE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	16E	24	25.0	20.0	9.0	39.0									24.0	2.0	25.0	37.0	181.0

POU Total Acres: 181.0

CONDITIONS OF APPROVAL

1. Rights 47-07022 and 47-07803A when combined shall not exceed the irrigation of 181 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.

Transfer No. 85037

WATER RIGHT NO. 47-7803A
As Modified by Transfer No. 85037

CONDITIONS OF APPROVAL

4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. The right holder shall accomplish the change authorized by this transfer within one 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.



WATER RIGHT NO. 47-7022**As Modified by Transfer No. 85037**

In accordance with the approval of Transfer No. 85037, Water Right No. 47-7022 is now described as follows:

Right Holder: JOHN K COURTNEY AND/OR
DESSIE D COURTNEY
2527 N 2700 E
TWIN FALLS, ID 83301

Priority Date: 1/23/1968

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/01	0.400 cfs	194.0 af
STOCKWATER	01/01	to 12/31	0.030 cfs	1.4 af
			0.400 cfs	195.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWNWNE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County
GROUND WATER	SENESE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County
GROUND WATER	SWSWSE	Sec 24 Twp 12S Rge 16E	TWIN FALLS County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	16E	24	25.0	20.0	9.0	39.0									24.0	2.0	25.0	37.0	181.0

Right Acre Limit: 68.0

POU Total Acres: 181.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	16E	24															X	X	

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 68 acres within the authorized place of use in a single irrigation season.
2. Rights 47-07022 and 47-07803A when combined shall not exceed the irrigation of 181 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 85037

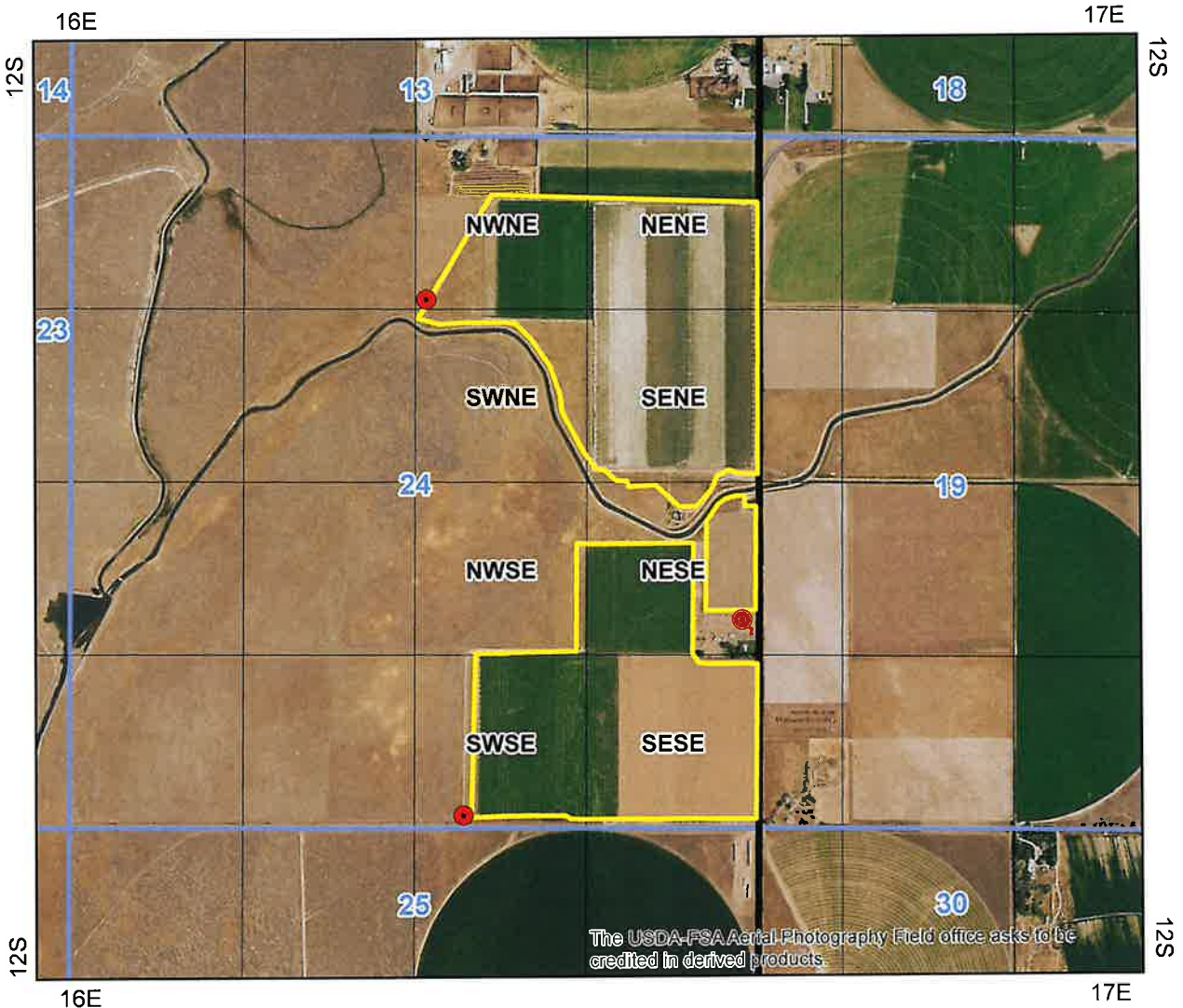
WATER RIGHT NO. 47-7022
As Modified by Transfer No. 85037

CONDITIONS OF APPROVAL

4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. The right holder shall accomplish the change authorized by this transfer within one 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. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources
Attachment to Transfer # 85037
47-7022 & 47-7803A

This map depicts the IRRIGATION place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.15 0.3 0.6 Miles





November 29, 2021

ATARAXIS ACCOUNTING
C/O NANCY KOONCE
PO BOX 1292
TWIN FALLS ID 83303-1292

Re: Transfer No: 85037
Water Right No(s): 47-7022, 47-7803A

Transfer Approval Notice

Dear Water Right Holder(s) and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

JOHN K COURTNEY
DESSIE D COURTNEY
2527 N 2700 E
TWIN FALLS ID 83301

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 85037
Water Right No(s): 47-7022, 47-7803A

ATARAXIS ACCOUNTING
C/O NANCY KOONCE
PO BOX 1292
TWIN FALLS ID 83303-1292

JOHN K COURTNEY
DESSIE D COURTNEY
2527 N 2700 E
TWIN FALLS ID 83301



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 this order. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 this 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director 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 Director 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 service date 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

Date: November 18, 2021
To: Transfer 85037 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes dropping one well from a water right and then adding two existing wells from that same irrigation ground water right to a second irrigation ground water right in order for the two rights to share the same three authorized points of diversion (combined total 2.9 cfs). Application also proposes dropping 88 acres from the shared place of use for both water rights reducing the place of use from 269 acres to 181 acres. Points of diversion and place of use are located approximately 13.0 to 13.9 miles south and 2.8 to 3.6 miles west of the intersection of Addison Ave, Blue Lakes Blvd, and Shoshone St in Twin Falls.

When viewing the farm in available aerial imagery, the 88 acres that are being dropped appear to have not been irrigated since 2011 and possibly longer. The well that has been dropped from water right 47-7803A will still serve as an authorized stockwater well under water right 47-16841.

Place of use and points of diversion are not currently in a water district.

- **Authority to File:**

John K and Dessie D Courtney, owners of the water rights in this transfer, are deceased, and their estate is currently in probate status. The applicant, Nancy Koonce of Ataraxis Accounting is the court assigned personal representative of the estate. As personal representative, she has indicated that the estate will remain in probate until after the transfer is approved.

- **Water Right Validity:** Water right 47-7002 was decreed in the SRBA on 10/15/2009. Water right 47-7803A was licensed 10/15/2009. The acres being retained appear to be irrigated when viewed in recent aerial imagery.

- **Injury to Other Water Rights:**
None anticipated.

- **Enlargement of Use:**
None anticipated.

- **Local Public Interest:**
No issues anticipated.

- **Beneficial Use/Conservation of Water Resources:**
Proposed uses are recognized as beneficial uses of water.

- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

**** Proof of Publication ****

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

SHERRI DAVIS, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85037**

ATARAXIS ACCOUNTING C/O NANCY KOONCE, PO BOX 1292, TWIN FALLS, ID 83301 has filed Application No. 85037 for changes to the following water rights within TWIN FALLS County(s): Right No(s). 47-7022, 47-7803A; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes dropping one of four wells from an irrigation ground water right and then adding two of the wells from that right to a second irrigation ground water right which will result in the two rights sharing the same three authorized points of diversion (combined total 2.9 cfs for both rights). Application also proposes dropping 88 acres from the shared place of use for both water rights reducing the place of use from 269 acres to 181 acres. Points of diversion and place of use are located approximately 13.0 to 13.9 miles south and 2.8 to 3.6 miles west of the intersection of Addison Ave, Blue Lakes Blvd, and Shoshone St in Twin Falls.

For additional information concerning the property location, contact Southern Region office at (208)736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 ADDISON AVE W STE 500, TWIN FALLS ID 83301-5858 together with a protest fee of \$25.00 for each application on or before November 8, 2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on October 21st & 28th, 2021

ORDER NUMBER 120292

Sherri Davis

(Legals Clerk)

STATE OF IDAHO)
 SS
COUNTY OF TWIN FALLS)

On this 15th day of November in the year of 2021 before me, a Notary Public, personally appeared before me Sherri Davis known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Reba M. Davis

Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 5/8/2026



Section: Legals

Category: 50 Legal

PUBLISHED ON: 10/21/2021, 10/28/2021

RECEIVED

NOV 08 2021

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ ok dm 11-15-2021

TOTAL AD COST: 96.30

FILED ON: 10/29/2021