STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82405

This is to certify that: GARDNER FARMS
166 W 265 N
BLACKFOOT, ID 83221-5182

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
35-2765	WR/DECREED	3/9/1965	4.060 cfs	960.0 af	N/A	240.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
35-2765	YES	YES	YES	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
35-2765	35-14593	3.110 cfs	736.0 af	N/A	184.0	35-2765	0.950 cfs	224.0 af	N/A	56.0
COMBINED TOTALS		**3.110 cfs**	**736.0 af**	**N/A**	**184.0**		**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 September, 2019.

Regional Manager

Support Data
In File # 35-2765

Transfer No. 82405

WATER RIGHT NO. 35-2765

As Modified by Transfer No. 82405

In accordance with the approval of Transfer No. 82405, Water Right No. 35-2765 is now described as follows:

Right Holder: D COOPER LLC
578 N 100 W
BLACKFOOT, ID 83221-5714

D CASE LLC
198 W 500 N
BLACKFOOT, ID 83221-5736

Priority Date: 3/9/1965

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	5/15	to	9/15	0.950 cfs	224.0 af
				0.950 cfs	224.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSWSW Sec 1 Twp 01S Rge 34E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	34E	2													17			39	56

POU Total Acres: 56.0

CONDITIONS OF APPROVAL

1. The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before May 15 and after September 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

2. Right includes accomplished change in place of use pursuant to Idaho Code § 42-1425.

3. 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. Idaho Code § 42-1412(6).

WATER RIGHT NO. 35-14593

As Modified by Transfer No. 82405

In accordance with the approval of Transfer No. 82405, Water Right No. 35-14593 is now described as follows:

Right Holder: D COOPER LLC
578 N 100 W
BLACKFOOT, ID 83221-5714

D CASE LLC
198 W 500 N
BLACKFOOT, ID 83221-5736

Priority Date: 3/9/1965

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	5/15	to	9/15	3.110 cfs	736.0 af
				3.110 cfs	736.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 33 Twp 04S Rge 30E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04S	30E	32	31.0	30.0	30.0	32.0													123.0
04S	30E	33					31.0	30.0											61.0

POU Total Acres: 184.0

CONDITIONS OF APPROVAL

1. The period of use for the irrigation described in this approval may be extended to a beginning date of April 1 and an ending date of October 31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before May 15 and after September 15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 3/6/2002.

2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.

Transfer No. 82405

WATER RIGHT NO. 35-14593

As Modified by Transfer No. 82405

CONDITIONS OF APPROVAL

3. Prior to the diversion and use of water under Transfer approval 82408, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

5. 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.

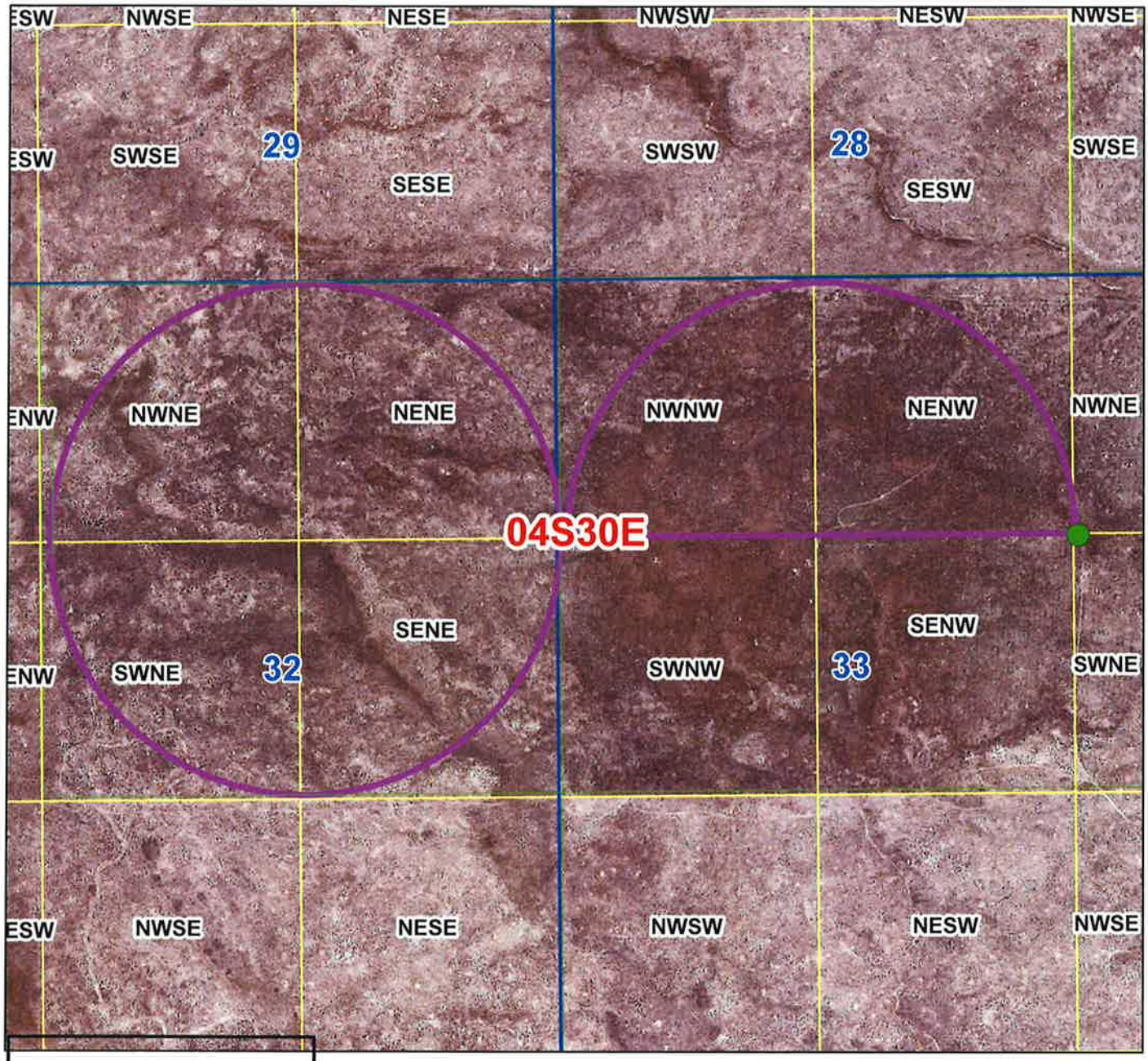
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

8. 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.

Attachment to Transfer Approval 82405

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



Legend

- Water Right POD
- Parcels
- Water Right POU
- Township/Range
- Sections
- QQ

0 500 1,000 2,000 Feet

N
W E
S

Date: 9/27/2019

State of Idaho
DEPARTMENT OF WATER RESOURCES
Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177
Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 26, 2019

GARDNER FARMS
166 W 265 N
BLACKFOOT ID 83221-5182

Re: Transfer No: 82405
Water Right No(s).: 35-2765
Transfer Approval Notice

Dear Water Right Holder:

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) 525-7161.

Sincerely,

James Cefalo
Regional Manager

Enclosure

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.

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2019 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.: 82405
Water Right No(s).: 35-2765

GARDNER FARMS
166 W 265 N
BLACKFOOT ID 83221-5182

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

D COOPER LLC
578 N 100 W
BLACKFOOT ID 83221-5714

D CASE LLC
198 W 500 N
BLACKFOOT ID 83221-5736

JONAS REAGAN
BARKER ROSHOLT & SIMPSON LLP
163 2ND AVE W
PO BOX 63
TWIN FALLS ID 83303-0063

KENT FLETCHER
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318

IDAHO POWER COMPANY
BARKER ROSHOLT & SIMPSON
JOHN K SIMPSON
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139

Christina Henman