

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 28 2000

Department of Water Resources
Eastern Region

TRANSFER OF WATER RIGHT

TRANSFER NO. 5659 - 67079
WATER RIGHT NO. 34-07035B

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

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>
IRRIGATION	04/01 to 11/01	4.98 CFS	1293.3 AF

SOURCE
GROUNDWATER

Priority: 04/12/1973

LOCATION OF POINT(S) OF DIVERSION:

SESE , Sec. 5, Township 04N, Range 26E
BUTTE 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	25E	2	NENW 39	NWNW 39	SWNW 40	158
			SENW 40			78
		3	NENE 39	NWNE 39		
04N	25E	34	NENE 39	NWNE 38	SWNE 40	
			SENE 40	NESE 40	NWSE 40	
			SWSE 40	SESE 40		317
		35	NENW 38	NWNW 38	SWNW 40	
			SENW 40	NESW 20	NWSW 40	
			SWSW 39	SESW 20		275
Total number of acres irrigated:						828

CONDITIONS OF APPROVAL AND REMARKS

Right 34-07035B is subject to the conditions of the Preliminary Order dated 06-06-2000 which has become final in the matter of Application for Transfer 5659

Dated this 24th day of

August, 2000

J. Glen Saylor
Chief, Water Allocation Bureau

Protested 3/16/2000

Page 1 of 7STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5459

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant M TODD PERKES Phone _____Post Office address RT 1 BOX 69 MOORE ID 83255

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 SPLIT RIGHT

2. Describe the reason for the proposed changes TO SETTLE LITIGATION BETWEEN JENSEN AND SORENSEN

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>34-07035 B</u>	<u>04/12/1973</u>	<u>4.98 CFS</u>	<u>IRRIGATION</u>	<u>04/15</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 4.98 cubic feet per second and/or _____ acre-feet per annum.3. Source of water GROUNDWATER tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	SE	05	04N	26E	BUTTE	MITCHELL D. SORENSEN FARM, NEW WELL

5. Lands irrigated or place of use: PPU LANDS OWNED BY MITCHELL D. SORENSEN

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
03N	25E	02					39	39	40	40									158
		03	39	39															78
04N	25E	34	39	38	40	40									40	40	40	40	317
		35					38	38	40	40	20	40	39	20					275

Total acres 828

PART 1

6. General Information:

- a. Description of diversion system WELL AND PUMP ON ONE SORENSEN FARM WILL DIVERT
INTO PIPELINE WHICH WILL DISCHARGE DIRECTLY INTO TIMBERDOME CANAL
TO OTHER SORENSEN FARM
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ 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:

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ 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:

NONE

d. Remarks:

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 _____, 19____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
 in case of _____ vs. _____
 dated _____ in _____ county of _____
- b. License No. 34-07035 issued by the Idaho Department of Water Resources.
- c. Claim No. A34-07035 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water GROUNDWATER tributary to _____

4. Date or priority 04/12/1973

5. Water is used for the following purpose:

amount 5.62 CFS for IRRIGATION purposes from 04/15 to 10/15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right 5.62 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	NW	08	04N	26E	BUTTE	M. TODD PERKES FARM

8. Lands irrigated or place of use: PPU OF LANDS OWNED BY M. TODD PERKES

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
03N	25E	01	33	33	33	33													132
04N	25E	25					33	33	33	40	40	33	33	39	33	40	39	33	429

Total acres 561

9. Describe any other water rights used for the same purpose as described above 34-07122A

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 4.98 cfs for Irrigation purposes from 4/15 to 10/15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	NW	8	4N	26E	Butte	Todd Peaks Farm

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			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	

Total acres _____

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

1. amount 0.064 cfs for Irrigation purposes from 4/15 to 10/15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	NW	8	4N	26E	Butte	

3. Lands irrigated or place of use:

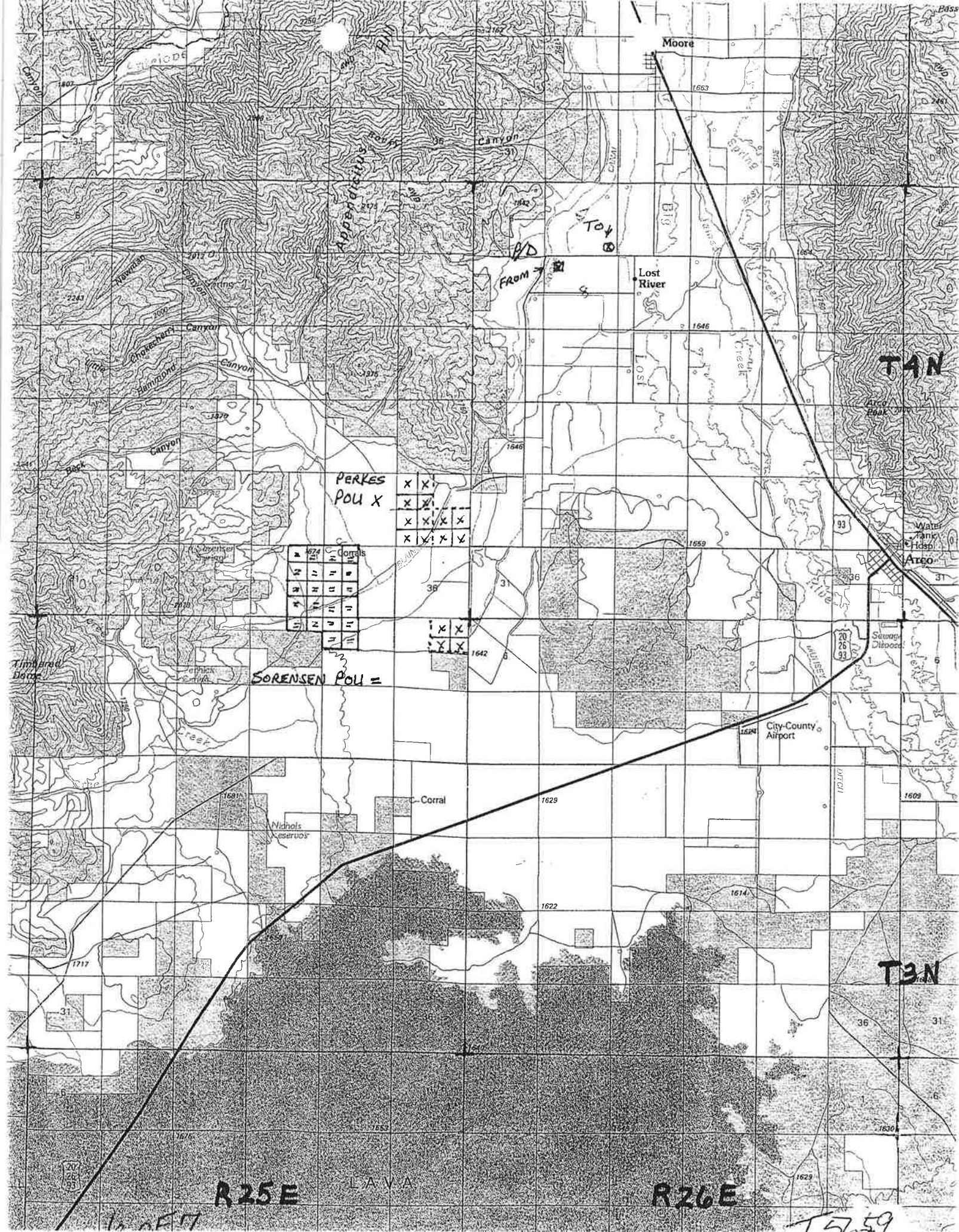
Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	26E	1	33	33	33	33													132
4N	26E	25					33	33	33	40	40	33	33	39	33	40	39	33	429

Total acres 561

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**

SEE MAP ATTACHED



PART 3**B. CHANGES IN NATURE OF USE**

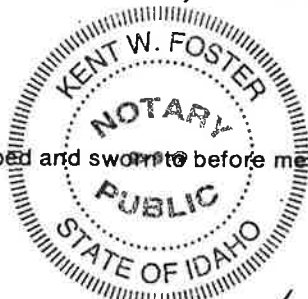
1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

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.



Subscribed and sworn to before me this 5th day of JANUARY, 2000.

(Signature of Applicant)

(Notary Public)

My commission expires 11/20/2004**FOR DEPARTMENT USE ONLY**Transfer contains 7 pages and 10 attachmentsReceived by [Signature] Date 1-10-2000

Protest filed by _____

Prelim. check by _____ Fee \$100.00Receipted by HWS #E025541 Date 1-10-2000Published in Arco Advertiser

Copies of protest forwarded by _____

Pub. dates 2-17 & 3-2-00

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for ☐ approval ☐ denial

_____ rec'd. _____

by _____

Copy of transfer sent to lien holder _____

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER 5659, 5661 AND 5660)
IN THE NAMES OF M. TODD PERKS AND)
MITCHELL D. SORENSEN RESPECTIVELY)

**PROPOSED MEMORANDUM
DECISION AND ORDER**

The sequence of events that resulted in the filing of applications for transfer 5659, 5660, and 5661 is unusual. The transfers reflect the elements of the settlement of a civil suit between Kirby A. Jensen and Sharon W. Jensen, husband and wife and Mitchell D. Sorensen and Elaine R. Sorensen, husband and wife. In this case, the matter was adjudicated in district court, and that decision was appealed to the Idaho Supreme Court. Ultimately, Supreme Court Justice, Byron J. Johnson, retired, agreed to personally mediate a settlement that would allow Sorensens to dismiss their appeal before the Supreme Court. The three referenced transfers are part of this settlement agreement. As part of this settlement M. Todd Perkes and his wife Norma Perkes were to take over Sorensens position in specified water exchange agreements with Kirby Jensen et ux. Under this agreement, water rights were to be exchanged between Perkes and Sorensen.

Applications for transfer, numbered 5659, 5660, and 5661 were received by the Department of Water Resourcee (IDWR) on January 10, 2000. After initial IDWR review, notice of the proposed changes was published in the Arco Advertiser on February 17 & March 2, 2000. A protest against the approval of all three applications was received from a group identifying itself as the Big Lost River Water Users Association. Of those signing the protest, only Larman D. Andersen and Joel Andersen appeared at the hearing. The protestants were not represented by counsel. Their objections to the changes is reflected as follows:

1. Water Right 34-07035(B) (T5659) proposes a well just north and west of Larman Andersen's supplemental well. Mr. Andersen believe that

pumping at this location would adversely affect the pumping level in his well.

2. Larman Andersen has a water right on a spring located near Arco. This spring has not produced sufficient water during the "last few years" to fill the Andersen water right. He believes that because the water from the new well will be used outside the "A-Line", this right would not be helped by the recharge from water diverted from the proposed well.
3. The use of water would affect all rights north of the "A-Line".
4. Joel Andersen has a supplemental well in Section 4, east of Mitchell Sorensen's property, and one-half mile south of the "Pump Orchard". This well is less than a quarter of a mile from the location where Sorensen's new well is proposed. The protestants also claim (although not a relevant issue) in this matter that, "Some of these wells have cease and desist orders on them. However, under the Higginson administration they were never enforced. Also the priority on wells was never enforced."

Evidence having been taken, the hearing officer, as a representative of the Director of the Department of Water Resources, proposes the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. On January 5, 2000, M. Todd Perkes and Norma Perks, husband and wife, here-in-after Perkes, executed a Quitclaim Deed for Water Rights granting 4.98 cfs of right 34-07035 to Mitchell D. Sorensen and Elaine R. Sorensen, husband and wife, here-in-after Sorensen. Right 34-07035 was originally licensed for 5.62 cfs from ground water, and appurtenant to 561 acres located in the NE1/4 Section 1, Township 3 North, Range 25 East, and the W1/2 and the SE1/4, Section 25, Township 4 North, Range 25 East, B.M. The SRBA Director's report limits the use of this right to 417 acres within the described place of use in any single irrigation season. Based upon this agreement and split, Perkes would retain sufficient water from right 34-0735 (the "A" portion) to irrigate 47.5 acres

within the above described lands. Sorensen would have the right under portion "B" to irrigate 369.5 acres within an 828 acre tract, the description of which will be more specifically identified later in this decision.

2. The portion of water right 34-07035 deeded to Sorensen would be diverted from a new well to be drilled within the SE1/4SE1/4 Section 5, Township 4 North, Range 26 East, B.M. The change proposed in right 34-07035 is the subject of transfer application 5659.

3. On January 7, 2000, Sorensen transferred the ownership of the water rights listed below to Perkes.

4.

34 - 07096A	January 31, 1975	1.84 cfs	79 acres/yr
34 - 07097A	January 31, 1975	1.58 cfs	92 acres/yr
34 - 07223	April 16, 1979	1.58 cfs	80 acres/yr

The Perkes would have the right to annually irrigate 251 acres within their 561 acre described place of use with the rights received from the Sorensens. These three rights are the subject of transfer application 5660.

5. The rights transferred from the Sorensen to the Perks were appurtenant to 828 acres described as being within:

NW1/4	Sec 2 TWP 3N RGE 25E	158 acres
NE1/4	Sec 3 TWP 3N RGE 25E	78 acres
E1/2	Sec 34 TWP 4N RGE 25E	317 acres
W1/2	Sec 35 TWP 4N RGE 25 E	275 acres

Within this described area, right 34-07035, which was transferred to Sorensen could provide water to 369.5 acres or 44.62% of the total acreage. Water rights 34-07096A,

34-07097A and 34-07223, which were transferred from Sorensen to Perkes could supply water to 251 acres, or 30.31% of the total acreage.

The third transfer, 5661, proposes to add a point of diversion within the NE1/4 SE1/4NW1/4 Sec. 5 TWP 4N RGE 26E, B.M. Butte County for right 34-07035(A). And to add a point of diversion within the NE1/4NW1/4NW1/4 Sec 8 TWP 4N Rge 26 E B.M. Butte County for right 34-07122A. The change would make both wells points of diversion for either or both rights owned by Perkes. The Place of use of these two rights contains 561 acres, which would remain unchanged by the proposed transfer.

6. The changes specified in the mediated agreement require a change in the ownership of water rights, changes in points of diversion where rights are diverted, but do not change the total acreage irrigated by the combined rights. Sorensen will continue to irrigate 828 acres and Perkes will continue to irrigate 561 acres after the proposed changes have been made.

7. The protestants expressed concern that the new well proposed in application 5659 would interfere with their ground water rights. Joel Andersen has an existing supplemental well that will be approximately 1900 feet northeast proposed Sorensen well. Larman Andersen indicated that his supplemental well was about 4200 feet southeast of the proposed new well. Joel Andersen said that in 1992, (one of the driest years of record in eastern Idaho), he measured the water level in his well on April 8, 1992 at 26 ft below land surface, on July 10, he measured the pumping level at 67 feet. At that time Joel Andersen had an additional 10 feet of casing added to his well. On August 12, he was unable to get adequate water to pressurize his system.

8. Dr. Charles Brockway, P.E. of Brockway Engineering was hired by the applicants as an expert to determine the impacts that other water users might expect as a result the changes required by the settlement agreement. Dr. Brockway located the wells of Perkes, Andersen and the proposed well of Sorensen as follows:

PROPOSED WELL'S DISTANCE FROM PROTESTANTS WELL

SUBJECT WELL	APPROXIMATE DISTANCE FROM THE JOEL ANDERSEN WELL
Perkes North Well	4500 feet
Perkes South Well	5300 feet
Sorensen Well	1900 feet

Based upon the aquifer characteristics that had been previously determined by a pump test conducted by the USGS, Dr. Brockway compared anticipated pumping drawdown effects on the wells of the protestants under the existing pumping scenario and then after implementation of the proposed changes. The results of these comparisons were submitted in Applicants Exhibit A. These results indicated that under the existing scenario, without the proposed Sorensen well, the Joel Andersen well is subject to a cumulative draw down in water level of about 8.27 feet after 210 days of continuous pumping. After the change the draw down, at the Joel Andersen well, assuming combined maximum pumping rates comparable to the pre-agreement rates, the protestants could anticipate, after 210 days of pumping, that the Joel Andersen supplemental well could expect to have the water in his well decline approximately one additional foot. Under this worst scenario and drought conditions the pumping level in the Joel Andersen well could not be expected to be greater than 90 feet. It is possible that under an extreme set of circumstances the Joel Andersen well might have to be deepened.

9. Idaho Code § 42-226 provides that, *while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this (ground water) right shall not block full economic development of underground water resources. Prior appropriators of underground water shall be protected in the maintenance of reasonable ground water*

pumping levels as may be established by the director of the department of water resources . . .

10. Water right owners are entitled to make changes in their water rights pursuant to state law if the changes do not result in an increased use of water, do not injure other water rights, and are in the public interest.

11. Applicant's Exhibit A – Map showing water right service areas.

Applicant's Exhibit B – Map showing well locations

Applicants Exhibit C – USGA Map showing aquifer test results and groundwater

Contours

Applicants Exhibit D – Brockway impact analysis

CONCLUSIONS OF LAW

1. M. Todd Perkes is the owner of water right 34-07035 and was entitled under Idaho Law to apply to change this right pursuant to §42-108 & §42-222, Idaho Code.

2. M. Todd Perkes has the right to apply to add a point of diversion to water rights 34- 07035(a) and 34-07122A as requested in application for transfer 5660.

3. Mitchell Sorensen is entitled under Idaho Law to apply to the Idaho Department of Water Resources to change the point of diversion, place of use, or nature of use of water rights 34-07096A, 34-07097A and 34-07223.

4. The applicants are entitled to apply to make changes in their water rights pursuant to state law.

5. The changes proposed in applications for transfer 5659, 5660 and 5661 are in the local public interest, will not injure other water rights, and will not result in an enlargement of the acreage irrigated under these rights.

ORDER

IT IS HEREBY ORDERED that applications for transfer nos. 5659, 5660 and 5661 are APPROVED subject to the following conditions:

1. The use of water under these rights shall be subject to the control of the watermaster of Water District 34.
2. A measuring device of a type approved by the department shall be installed at each point of diversion.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NOS. 5659, 5661 AND 5660)	PRELIMINARY ORDER
THE NAMES OF M. TODD PERKS AND)	
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The Perkes would have the right to annually irrigate 251 acres within their 561 acre described place of use with the rights received from the Sorensens. These three rights are the subject of transfer application 5660.

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Perkes North Well	4500 feet
Perkes South Well	5300 feet
Sorensen Well	1900 feet

Based upon the aquifer characteristics that had been previously determined by a pump test conducted by the USGS, Dr. Brockway compared anticipated pumping drawdown effects on the wells of the protestants under the existing pumping scenario and then after implementation of the proposed changes. The results of these comparisons were submitted in Applicants Exhibit A. These results indicated that under the existing scenario, without the proposed Sorensen well, the Joel Andersen well is subject to a cumulative draw down in water level of about 8.27 feet after 210 days of continuous pumping. After the change the draw down, at the Joel Andersen well, assuming combined maximum pumping rates comparable to the pre-agreement rates, the protestants could anticipate, after 210 days of pumping, that the Joel Andersen supplemental well could expect to have the water in his well decline approximately one additional foot. Under this worst scenario and drought conditions the pumping level in the Joel Andersen well could not be expected to be greater than 90 feet. It is possible that under an extreme set of circumstances the Joel Andersen well might have to be deepened.

9. Idaho Code § 42-226 provides that, *while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this (ground water) right shall not block full economic development of underground water resources. Prior appropriators of underground water shall be protected in the maintenance of reasonable ground water*

pumping levels as may be established by the director of the department of water resources . . .

10. Water right owners are entitled to make changes in their water rights pursuant to state law if the changes do not result in an increased use of water, do not injure other water rights, and are in the public interest.

11. Exhibits admitted as a part of the hearing record include the following:

- a.) Applicant's Exhibit A – Map showing water right service areas.
- b.) Applicant's Exhibit B – Map showing well locations
- c.) Applicant's Exhibit C – USGA Map showing aquifer test results and groundwater contours
- d.) Applicant's Exhibit D – Brockway impact analysis

CONCLUSIONS OF LAW

1. M. Todd Perkes is the owner of water right 34-07035 and was entitled under Idaho Law to apply to change this right pursuant to §42-108 & §42-222, Idaho Code.

2. M. Todd Perkes has the right to apply to add a point of diversion to water rights 34- 07035(A) and 34-07122A as requested in application for transfer 5660.

3. Mitchell Sorensen is entitled under Idaho Law to apply to the Idaho Department of Water Resources to change the point of diversion, place of use, or nature of use of water rights 34-07096A, 34-07097A and 34-07223.

4. The applicants are entitled to apply to make changes in their water rights pursuant to state law.

5. The changes proposed in applications for transfer 5659, 5660 and 5661 are in the local public interest, will not injure other water rights, and will not result in an enlargement under these rights.

ORDER

IT IS HEREBY ORDERED that Applications for Transfer 5659, 5660 and 5661 are APPROVED subject to the following conditions:

Transfer #5661

Conditions:

1. Water Right #34-07035A is limited to the irrigation of 47.5 acres within the place of use described above in a single irrigation season.
2. Water Right #34-07122A is limited to the irrigation of 561 acres within 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 1963.5 af at the field headgate, and the irrigation of 561 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 1963.5 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.
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 the 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

ORDER

IT IS HEREBY ORDERED that Applications for Transfer 5659, 5660 and 5661 are APPROVED subject to the following conditions:

Transfer #5660

Conditions:

1. Water Right #34-07223 is limited to the irrigation of 80 acres within the place of use described above in a single irrigation season.
2. Water Right #3407096A is limited to the irrigation of 92 acres within the place of use described above in a single irrigation season.
3. Water Right #34-07097A is limited to the irrigation of 79 acres within the place of use described above in a single irrigation season.
4. Rights #34-07096A, 34-07097A and 34-07223 when combined shall not exceed a total diversion rate of 5.00 cfs, a total annual maximum diversion volume of 878.5 af at the field headgate, and the irrigation of 251 acres.
5. The total instantaneous diversion of water from all points of diversion under Transfer #5660 shall not exceed 5.00 cfs, nor a total combined annual volume of 878.5 af.
6. Approval of Transfer #5660 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
7. Use of water under this water right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
8. 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.
9. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. Failure of the right holder comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

ORDER

IT IS HEREBY ORDERED that Applications for Transfer 5659, 5660 and 5661 are APPROVED subject to the following conditions:

Transfer #5659

Conditions:

1. Right #34-07035B is limited to the irrigation of 369.5 acres within the place of use described as 828 acres in a single irrigation season.
2. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
3. Use of water under this right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
4. 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.
5. The right holder shall accomplish the change authorized by this transfer within one (1) 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.

DATED this th6 day of June, 2000.

A handwritten signature in black ink, appearing to read "Ronald D. Carlson", written over a horizontal line.

RONALD D CARLSON
Hearing Officer