

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82043**

This is to certify that: **MARY J HORGAN AND
ROBERT L HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME, ID 83647**

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>
61-12226	WR/DECREED	10/1/1874	0.310 cfs	40.3 af	10.0	58.5	CANYON CREEK

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>
61-12226	NO	NO	NO	YES	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>
61-12226	61-12226	0.310 cfs	40.3 af	10.0	58.5	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.310 cfs	40.3 af	10.0	58.5		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 21st day of August, 2018.



Chief, Water Allocation Bureau

WATER RIGHT NO. 61-12226**As Modified by Transfer No. 82043**

In accordance with the approval of Transfer No. 82043, Water Right No. 61-12226 is now described as follows:

Right Holder: MARY J HORGAN AND
ROBERT L HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME, ID 83647

Priority Date: 10/1/1874

Source: CANYON CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to 10/31	0.300 cfs	40.0 af
STOCKWATER	01/01	to 12/31	0.010 cfs	0.3 af
			0.310 cfs	40.3 af

LOCATION OF POINT(S) OF DIVERSION

CANYON CREEK	NESE	Sec 11 Twp 02S Rge 06E	ELMORE County
CANYON CREEK	NESE	Sec 11 Twp 02S Rge 06E	ELMORE County
CANYON CREEK	NWNW	Sec 12 Twp 02S Rge 06E	ELMORE 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	
02S	06E	11				0.5									27.0			31.0	58.5

Right Acre Limit: 10.0

POU Total Acres: 58.5

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	
02S	06E	11				X									X			X	

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 10 acres within the place of use described above in a single irrigation season.
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 lands above.

Transfer No. 82043

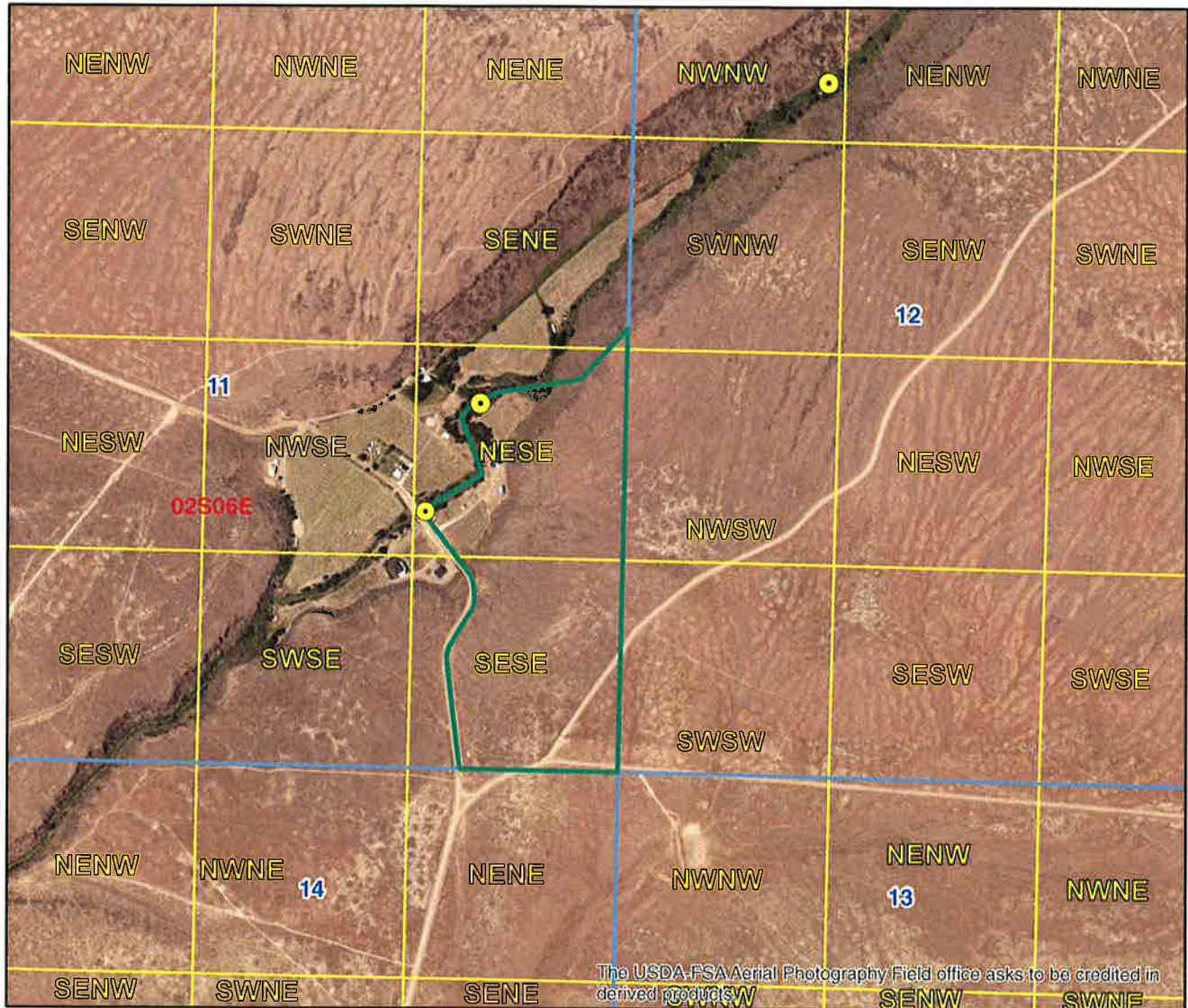
WATER RIGHT NO. 61-12226
As Modified by Transfer No. 82043

CONDITIONS OF APPROVAL

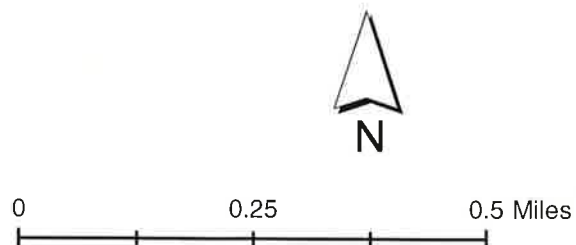
3. Rights 61-12223 thru 61-12226 when combined shall not exceed a total diversion rate of 0.03 cfs and a total annual maximum diversion volume of 1.0 af for stockwater purposes and a total diversion rate of 1.19 cfs for irrigation purposes.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 10/26/2000.
5. 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. 61A.
6. 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 diversions.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, 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 No. 82043
Water Right: 61-12226

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



-  Points of diversion
-  Place of use
-  Township/Range
-  Sections
-  QQ





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 21, 2018

ROBERT L HORGAN
MARY J HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME ID 83647

Re: Transfer No: 82043
Water Right No(s): 61-12226

Transfer Approval Notice

Dear Water Right Holder 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) 334-2190.

Sincerely,

 Rachel Neely, for.

Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2018 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.: 82043
Water Right No(s): 61-12226**

**ROBERT L HORGAN
MARY J HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME ID 83647**

**TERRY SEEGRIST
WATER DISTRICT 61A
140 S. 3RD E
MTN HOME ID 83647**



**Rachel Neely
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.

AFFIDAVIT OF PUBLICATION

County of Elmore } ss.
State of Idaho

I, **Joy Martinez**, do solemnly swear that I am the Legal Clerk of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 21st day of MARCH 2018, and the last publication having been made on the 28th day of MARCH, 2018; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Joy Martinez
Legal Clerk

Subscribed and sworn to me this 28th day of MARCH, 2018.

Brenda M. Mcke
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2022**.

The following application has been filed to appropriate the public waters of the State of Idaho:

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 82043

*✓ OK RW
4/23/18*

ROBERT L HORGAN and MARY J HORGAN, 14180 NE CROSS WATER LN, MOUNTAIN HOME, ID 83647; has filed Application No. 82043 for changes to the following water rights within ELMORE County(s): Right No(s). 61-12226. The purpose of this transfer is to add a point of diversion from Canyon Creek to water right 61-12226 for stockwater and irrigation use. The proposed point of diversion is located in the NESE of Section 11, Township 02 South, Range 06 East, Boise Meridian. Water will continue to be used at the current place of use located approximately 8.5 miles north of Mountain Home, Idaho.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 4/9/2018. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director
First Publication: March 21, 2018.
Last Publication: March 28, 2018.

RECEIVED

MAR 30 2018

WATER RESOURCES
WESTERN REGION

MEMORANDUM

TO: Transfer No. 82043 File
FROM: Cody Parker
RE: Evaluation of Sufficiency of Information Submitted
DATE: March 1, 2018

The purpose of this transfer is to add a point of diversion from Canyon Creek to water right 61-12226. The proposed POD is located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, Township 02 South, Range 06 East, Boise Meridian. Water will continue to be used at the current place of use located approximately 8.5 miles north of Mountain Home, Idaho.

Summary of Information Submitted

Authority to File: The right was previously listed in the name of Mary Horgan. An ownership change submitted with the transfer application, and processed prior to transfer processing, added Robert Horgan as an owner in addition to Mary Horgan. Current tax parcel information shows that Robert Horgan is owner of the place of use and the land on which the new POD is proposed. The application is signed by both Mary and Robert. These two appear to be the owners of the right and have authority to file the transfer application.

Water Right Validity: Right no. 61-12226 was decreed in 2000. The right authorizes the diversion of 0.31 cfs and 40.3 afa of water from Canyon Creek for stockwater use and the irrigation of 10.0 acres. Since February 18, 2014 (and until December of 2018) 6.8 acres irrigation, 27.2 afa, and 0.20 cfs have been leased to the Water Supply Bank and are protected from forfeiture. Beneficial use for the stockwater use and the remaining irrigation use is confirmed from 2013 and 2015 aerial imagery. The right is presumed valid.

Injury to Other Water Rights: None anticipated. This right currently lists two points of diversion from Canyon Creek which are separated by a reach $\frac{3}{4}$ miles long. There are two other diversions authorized from the reach between the existing PODs listed on this right. The Department will solicit comment from the owners of these diversions at advertising to ensure that there is no reduction of water available to other users.

Enlargement of Use: None anticipated. The application does not propose any change to the diversion rate, diversion volume, irrigated acreage, or season of use. The full beneficial use authorized by this right has been confirmed so addition of the new POD cannot encourage additional water use.

Local Public Interest: The application proposes a change consistent with the local public interest. Comment will be solicited from the Watermaster and other water users at advertising.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I.C. §42-222 and should be processed.

Discussion

Overlap: There is no overlap with the place of use or the proposed point of diversion. There are two existing diversions near the proposed POD but they are considered separate diversions.

A portion of the irrigation from this right has been leased to and rented from the Water Supply Bank. The proposed changes affect rented portions of this right. A final decision regarding this transfer application should be delayed until the rental agreement is expired. A letter has been sent explaining this delay to the right owners.

Amendment: An amendment of the application was submitted on February 21, 2018. The amendment corrected the legal description of one of the existing points of diversion. It also changed the total amount of water listed under Item 4 to the total diversion rate authorized by the right. The owners confirm that they do want to be able to divert the entire right from any one of the points of diversion upon approval of the transfer.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 10, 2018

MARY J HORGAN And
ROBERT H HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME ID 83647

RE: Application for transfer of water right 61-12226

Dear applicants,

I am writing you today in regard to the application for transfer referenced above which proposes to add a point of diversion from Canyon Creek to water right 61-12226. On January 9, 2018 I spoke with Mary Horgan over the phone to clarify the intent of the application. Enclosed is an amended application based on our phone conversation. The total amount of water listed in item 4 has been changed to show the full amount of the right. This change will allow you to divert the full water right from any of the three points of diversion upon approval of the transfer.

As we discussed, the change increases the application fee for the water right. The new fee is \$500. You paid \$200 dollars with the original submission. To resume processing of your application, please sign and return the enclosed amended application along with the additional \$300 for the processing fee.

Once I receive your amended application and fee I will forward your application to advertising. Advertising your application in the local newspaper provides an opportunity for the public to protest. You will be notified if your application is protested. Also just as a reminder, a portion of the water right to be changed has been leased to, and rented from, the water supply bank. As a result, a final decision regarding your transfer application will be held until the rental contract has expired.

Please let me know if you have any questions regarding the content of this letter. I look forward to your reply. Thank you for your time and for your attention to these matters.

Respectfully,

Cody Parker
Water Resource Agent
IDWR Western Region
208-334-2190
cody.parker@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 8, 2017

MARY HORGAN And
ROBERT HORGAN
14180 NE CROSS WATER LN
MOUNTAIN HOME ID 83647

RE: Water right no. 61-12226

Dear water right owners,

I am writing you today in regard to the water right referenced above which authorizes the diversion of 0.31 cfs and 40.3 afa from Canyon Creek for stockwater and irrigation uses. On November 20, 2017 you submitted a transfer application proposing to add a point of diversion from Canyon Creek to the water right. As you are aware, a portion of the water right is leased to, and rented from, the water supply bank. The proposed changes will affect the leased/rented portion of the water right.

As the result of the information summarized above, the final approval or denial of your transfer application will be delayed until the end of the rental contract period. In the meantime, your application will be processed, including advertising your application in the local newspaper. Any protests resulting from advertising will need to be resolved for a final decision to be issued.

If you agree to the information above you do not need to make a reply to this letter. However, if you wish to withdraw your application you may do so by completing and returning the enclosed form. Please let me know if you have any questions regarding the content of this letter. Thank you for your time and for your attention to these matters.

Respectfully,

Cody Parker
Water Resource Agent
IDWR Western Region
208-334-2190
cody.parker@idwr.idaho.gov

Enclosed: withdrawal form