STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82207

This is to certify that: FRANCIS LIVINGSTON AND
SUE ROTHER
110 ELDERBERRY LN
BELLEVUE, ID 83313

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
37-2639B	WR/DECREED	7/25/1966	0.450 cfs	40.9 af	N/A	11.7	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
37-21616	WR/DECREED	7/1/1887	0.160 cfs	N/A		3.3	BIG WOOD RIVER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
37-2639B	YES	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
37-2639B	37-23107	0.130 cfs	11.5 af	N/A	3.3	37-2639B	0.320 cfs	29.4 af	N/A	8.4
COMBINED TOTALS		**0.130 cfs**	**11.5 af**	**N/A**	**3.3**		**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 29th day of June, 2018.

Southern Region Manager

SUPPORT DATA
IN FILE # 37-2639B

Transfer No. 82207

WATER RIGHT NO. 37-2639B

As Modified by Transfer No. 82207

In accordance with the approval of Transfer No. 82207, Water Right No. 37-2639B is now described as follows:

Right Holder: BROADFORD POLO SUBDIVISION OWNERS ASSN
LLOYD R BARNES
206 POLO CLUB LN
BELLEVUE, ID 83313

Priority Date: 7/25/1966

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to	11/01	0.320 cfs	29.4 af
				0.320 cfs	29.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NENE Sec 35 Twp 02N Rge 18E BLAINE 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
02N	18E	35	2.0			6.4													8.4

POU Total Acres: 8.4

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. 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.

WATER RIGHT NO. 37-23107

As Modified by Transfer No. 82207

In accordance with the approval of Transfer No. 82207, Water Right No. 37-23107 is now described as follows:

Right Holder: SUE ROTHER AND
FRANCIS LIVINGSTON
110 ELDERBERRY LN
BELLEVUE, ID 83313

Priority Date: 7/25/1966

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to	11/01	0.130 cfs	11.5 af
				0.130 cfs	11.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NENE Sec 35 Twp 02N Rge 18E BLAINE 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
02N	18E	35	3.3																3.3

POU Total Acres: 3.3

CONDITIONS OF APPROVAL

1. Rights 37-23107 and 37-21616 when combined shall not exceed the irrigation of 3.3 acres.
2. This right when combined with all other rights shall provide no more than 3.5 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 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 Section 42-222, Idaho Code, or other Department approval.

Transfer No. 82207

WATER RIGHT NO. 37-23107

As Modified by Transfer No. 82207

CONDITIONS OF APPROVAL

4. 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. 37.

5. 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(s).

6. Place of use is located within Lots 1-2, Blk. 3; Broadford Polo Subdivision.

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.

WATER RIGHT NO. 37-21616

As Modified by Transfer No. 82207

In accordance with the approval of Transfer No. 82207, Water Right No. 37-21616 is now described as follows:

Right Holder: SUE ROTHER AND
FRANCIS LIVINGSTON
110 ELDERBERRY LN
BELLEVUE, ID 83313

Priority Date: 7/1/1887

Source: BIG WOOD RIVER **Tributary:** MALAD RIVER

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/15	to	10/31	0.160 cfs
STOCKWATER	01/01	to	12/31	0.020 cfs
				0.160 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER NENE Sec 35 Twp 02N Rge 18E BLAINE 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
02N	18E	35	3.3																3.3

POU Total Acres: 3.3

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N	18E	35	X																

CONDITIONS OF APPROVAL

1. 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.

2. Use of water under this right will 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. 37.

3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 82207

WATER RIGHT NO. 37-21616

As Modified by Transfer No. 82207

CONDITIONS OF APPROVAL

4. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

5. This right is a split from former right 37-21436 .

6. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

7. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

8. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

9. Right Nos. 37-23107 and 37-21616 are limited to the irrigation of a combined total of 3.3 acres in a single irrigation season.

State of Idaho
Department of Water Resources

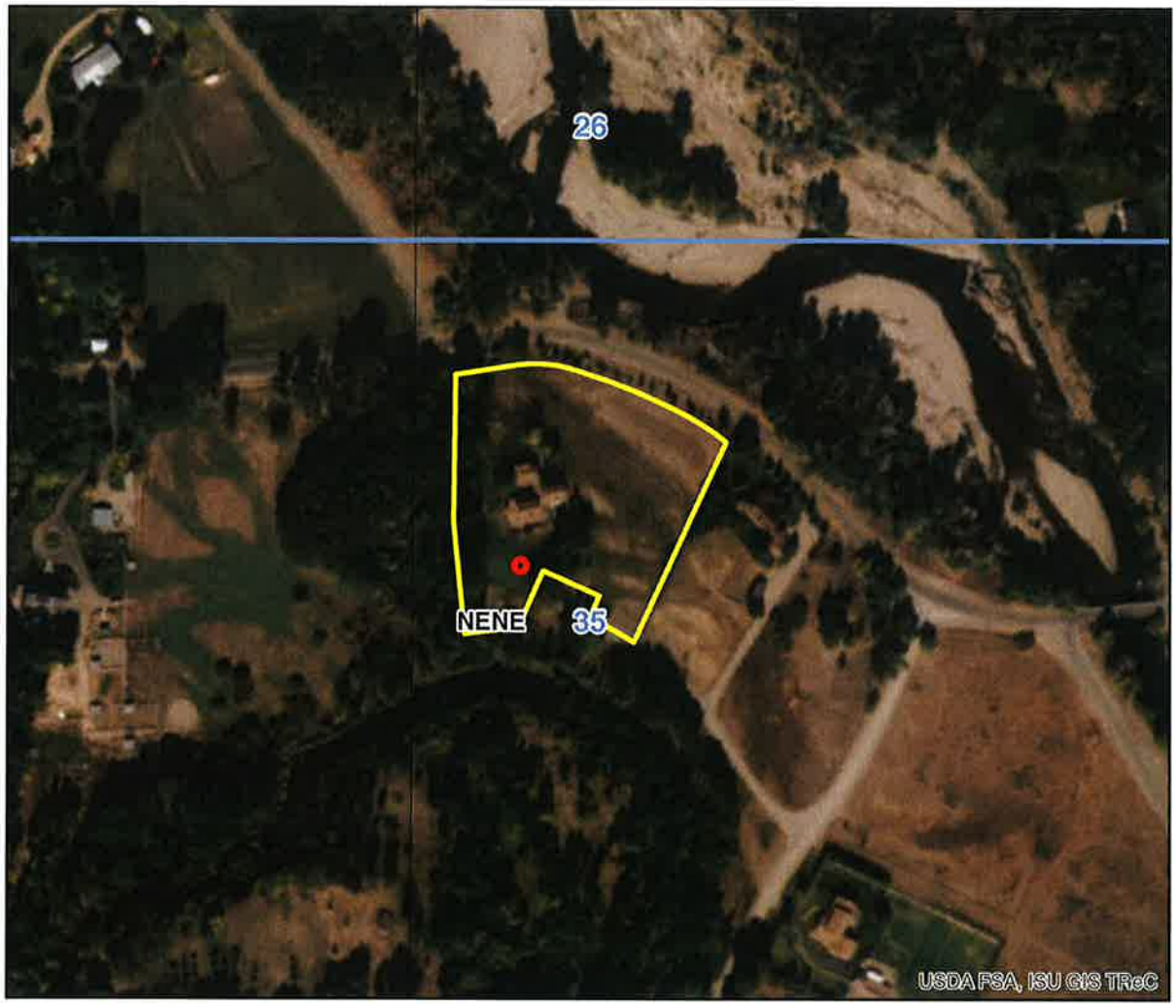
Attachment to Transfer # 82207

37-23107

This map depicts the IRRIGATION 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.

18E

02N



0 0.035 0.07 0.14 Miles

Point of Diversion

Place Of Use Boundary

Townships

PLS Sections

N

State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 3, 2018

SUE ROTHER
FRANCIS LIVINGSTON
110 ELDERBERRY LN
BELLEVUE ID 83313

Re: Transfer No: 82207
Water Right No(s).: 37-2639B, 37-21616

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) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure

cc:

BROADFORD POLO SUBDIVISION OWNERS ASSN
LLOYD R BARNES
206 POLO CLUB LN
BELLEVUE ID 83313

WATER DISTRICT 37
KEVIN LAKEY
107 W 1ST
SHOSHONE ID 83352

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 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.: 82207
Water Right No(s).: 37-2639B, 37-21616

SUE ROTHER
FRANCIS LIVINGSTON
110 ELDERBERRY LN
BELLEVUE ID 83313

BROADFORD POLO SUBDIVISION OWNERS ASSN
LLOYD R BARNES
206 POLO CLUB LN
BELLEVUE ID 83313

WATER DISTRICT 37 ***via e-mail***
KEVIN LAKEY
107 W 1ST
SHOSHONE ID 83352

Denise Maline

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: May 17, 2018

To: Transfer 82207

From: Kent Aasa

Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the point of diversion (POD) for a portion (0.13 cfs and 3.3 acres) of an irrigation ground water right which currently authorizes 0.45 cfs for irrigation of 11.7 acres. A review of the transfer application post advertising and protest period revealed that the acre feet amounts of the split portion were incorrect. The split portion was amended from 11.6 to 11.5 acre feet and the remaining portion was amended from 29.3 to 29.4 acre feet. The current POD is located approximately 0.5 mile west and 0.16 mile north of the Broadford Rd. and Highway 75 intersection in Bellevue. The proposed POD is an existing domestic well (the applicants have been notified by regular mail of the required drilling permit fee upgrade of $125.00) located approximately 350 feet south of the current POD. The place of use and the point of diversion are in Water District 37 so Watermaster comments were solicited.

- **Authority to File:** The water right is currently in the name of Broadford Polo Subdivision Owners Association. The application also includes an ownership change for the portion being split from 37-2639B. The application included a Warranty Deed that indicates the transfer applicants own lots #1 and #2 in Block 3 of Broadford Polo Subdivision with appurtenances. The application was signed by the applicants.

- **Water Right Validity:** Water right 37-2639B was decreed in September of 2010. The water right was involved in a transfer that was approved in 2015. Review of aerial photos indicates that the lands involved with the transfer have recently been irrigated so forfeiture does not appear to be an issue.

- **Injury to Other Water Rights:** None anticipated or foreseen because the new POD is approximately 350 feet south of the existing POD.

- **Enlargement of Use:** None anticipated. Applicants propose to only change the POD with no change proposed with the POU.

- **Local Public Interest:** No issues anticipated. This application was advertised with no subsequent protests.

- **Beneficial Use/Conservation of Water Resources:** Proposed use is recognized as a beneficial use of water.

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

- **Effect of the Agricultural Base of the Area:** 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.

RECEIVED
APR 16 2018
DEPT. OF WATER RESOURCES
SOUTHERN REGION

AFFIDAVIT of PUBLICATION

State of Idaho
County of Blaine

Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 4th day of April, 20 18, and the date of the last publication was on the 11th day of April, 20 18

Pam Morris

Subscribed and sworn to before me this 11 day of April, 20 18.

Connie N Johnson
NOTARY PUBLIC

CONNIE N. JOHNSON NOTARY PUBLIC STATE OF IDAHO

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340

COST OF PUBLICATION

Number of Picas per Line 11.5

Number of Lines in Notice 51

Number of Insertions 2

	Lines tabular at		9.0 cents/pica
51	Lines straight at	$46.92	8.0 cents/pica
51	Subsequent lines at	$41.06	7.0 cents/pica

TOTAL COST $87.98

COPY OF NOTICE

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF
IDWR

BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 82207

SUE ROTHER and FRANCIS LIVINGSTON, 110 ELDERBERRY LN, BELLEVUE, ID 83313; has filed Application No. 82207 for changes to the following water rights within BLAINE County(s): Right No(s). 37-2639B; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx . The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) for a portion (0.13 cfs and 3.3 acres) of an irrigation ground water right which currently authorizes 0.45 cfs for irrigation of 11.7 acres. The current POD is located approximately 0.5 mile west and 0.16 mile north of the Broadford Rd. and Highway 75 intersection in Bellevue. The proposed POD is an existing well located approximately 350 feet south of the current POD.

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 **April 23, 2018.** The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 4 & 11, 2018

✓ OK
DM
4-23-18