

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81233**

This is to certify that: **JOHN M AGUIRRE**
PO BOX 1345
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>
61-11912	WR/DECREED	4/1/1960	0.400 cfs	195.7 af	N/A	99.0	GROUND WATER
61-7121	WR/DECREED	11/23/1974	1.140 cfs	360.0 af	90.0	191.4	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>
61-11912	NO	YES	NO	YES	NO	NO
61-7121	NO	YES	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>
61-11912	61-11912	0.400 cfs	195.7 af	N/A	99.0	N/A	N/A	N/A	N/A	N/A
61-7121	61-7121	1.140 cfs	360.0 af	77.4	176.4	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.540 cfs	555.7 af	N/A	176.4		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 13th day of FEBRUARY, 2018.


Water Rights Supervisor

Transfer No. 81233

SUPPORT DATA

IN FILE # 61-7121

WATER RIGHT NO. 61-7121
As Modified by Transfer No. 81233

In accordance with the approval of Transfer No. 81233, Water Right No. 61-7121 is now described as follows:

Right Holder: JOHN M AGUIRRE
 PO BOX 1345
 MOUNTAIN HOME, ID 83647

Priority Date: 11/23/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	4/01	to 10/31	1.140 cfs	360.0 af
			1.140 cfs	360.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 7	Twp 04S Rge 07E	ELMORE County
GROUND WATER	SWSE	Sec 7	Twp 04S Rge 07E	ELMORE County
GROUND WATER	SWSE	Sec 7	Twp 04S Rge 07E	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	
04S	07E	7									30.0	37.0	12.0	20.0	5.7	14.7	28.0	29.0	176.4
												L 3	L 4						

Right Acre Limit: 77.4
 POU Total Acres: 176.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 77.4 acres within the authorized place of use in a single irrigation season.
2. Rights 61-7121 and 61-11912 when combined shall not exceed the irrigation of 176.4 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.
4. The right holder shall cease irrigation of 15.0 acres previously authorized under this right, and consolidate use of water on the remaining 77.4 acres.
5. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.

Transfer No. 81233

WATER RIGHT NO. 61-7121
As Modified by Transfer No. 81233

CONDITIONS OF APPROVAL

6. 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. 161.
7. Prior to the diversion and use of water under Transfer approval 81233, 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.
8. Use of this right is combined with water from Mountain Home Irrigation District.
9. 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.
10. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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. 61-11912**As Modified by Transfer No. 81233**

In accordance with the approval of Transfer No. 81233, Water Right No. 61-11912 is now described as follows:

Right Holder: JOHN M AGUIRRE
PO BOX 1345
MOUNTAIN HOME, ID 83647

Priority Date: 4/1/1960

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

3/15
1/01

To

to 11/15
to 12/31

Diversion Rate

0.400 cfs
0.030 cfs
0.400 cfs

Diversion Volume

194.4 af
1.3 af
195.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 7	Twp 04S	Rge 07E	ELMORE County
GROUND WATER	SWSE	Sec 7	Twp 04S	Rge 07E	ELMORE County
GROUND WATER	SWSE	Sec 7	Twp 04S	Rge 07E	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	
04S	07E	7									30.0	37.0	12.0	20.0					99.0
												L3	L4						

POU Total Acres: 99.0

CONDITIONS OF APPROVAL

1. Rights 61-7121 and 61-11912 when combined shall not exceed the irrigation of 176.4 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 quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
4. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
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. 161.

Transfer No. 81233

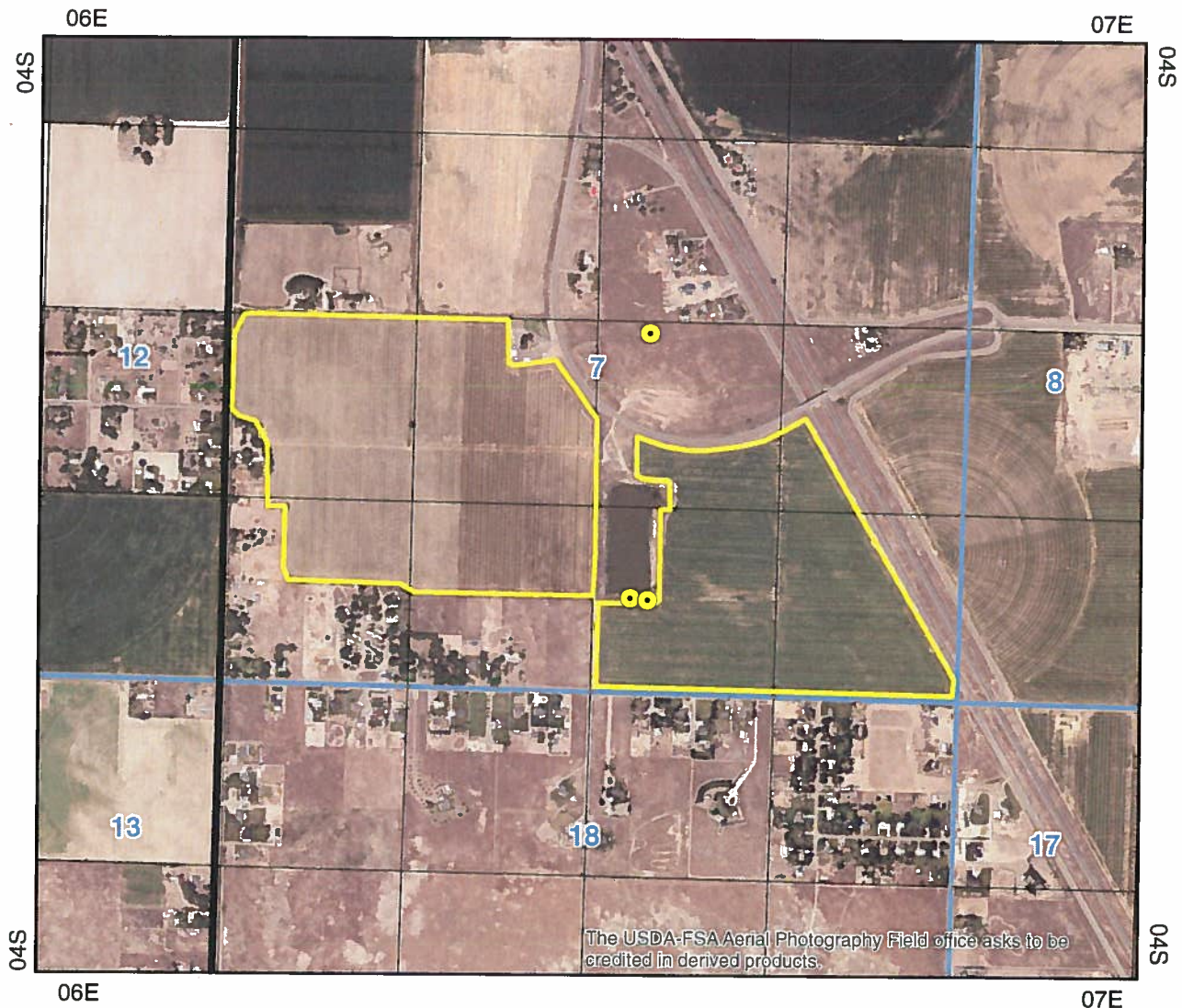
WATER RIGHT NO. 61-11912
As Modified by Transfer No. 81233

CONDITIONS OF APPROVAL

6. Prior to the diversion and use of water under Transfer approval 81233, 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.
7. Use of this right is combined with water from Mountain Home Irrigation District.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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 Water Right Transfer 81233
Water Right Numbers 61-7121 and 61-11912

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.



-  Transfer Points of Diversion
-  Transfer Place of Use
-  Townships
-  PLS Sections

0 0.15 0.3 0.6 Miles





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

February 13, 2018

JOHN M AGUIRRE
PO BOX 1345
MOUNTAIN HOME ID 83647

Re: Transfer No: 81233
Water Right No(s): 61-7121, 61-11912

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) 334-2190.

Sincerely,

 Rachel Neely Foris

Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 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.: 81233
Water Right No(s): 61-7121, 61-11912

JOHN M AGUIRRE
PO BOX 1345
MOUNTAIN 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

The following applications have been filed to appropriate the public waters of the State of Idaho:

61-12323
KELLY RIGGS
PAULA RIGGS
5420 W DOUBLE ANCHOR DR
GLENN'S FERRY, ID 83623
Point of Diversion SENW S33 T04S R09E
ELMORE County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.14 CFS
Use: HEATING 01/01 to 12/31 0.14 CFS
Total Diversion: 0.14 CFS

Date Filed: 9/13/2017
Places of Use: HEATING, DOMESTIC
T04S R09E S33 SENW

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 81233

JOHN M AGUIRRE, PO BOX 1345, MOUNTAIN HOME, ID 83647; has filed Application No. 81233 for changes to the following water rights within ELMORE County(s): Right No(s). 61-11912, 61-7121. The purpose of the transfer is to change points of diversion. The applicant proposes to abandon an old well and replace with a new well. Water will be used at the current place west of the Bennett Rd exit on I-84, approximately 2.5 miles south of Mountain Home.

Permits will be subject to all prior water rights. 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 §§ 42-203A and 42-222. Any protest against the approval of the application(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 11/20/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: November 1, 2017
Last Publication: November 8, 2017

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 1 day of NOV, 2017, and the last publication having been made on the 8 day of NOV, 2017; 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 8th day of NOV, 2017.

Brenda M. Fincher
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

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

RECEIVED

NOV 14 2017

WATER RESOURCES
WESTERN REGION

