

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81212**

This is to certify that: IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN, ID 83325

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>
61-12269	WR/DECREED	2/21/1971	1.640 cfs	504.0 af	N/A	126.0	GROUND WATER

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

<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>
61-12290	WR/DECREED	3/24/1970	2.750 cfs	747.4 af	165.5	468.0	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>
61-12269	NO	YES	YES	NO	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>
61-12269	61-12269	1.640 cfs	504.0 af	126.0	468.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.640 cfs	504.0 af	126.0	468.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 30th day of January, 2017.



Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 61-12269

Transfer No. 81212

WATER RIGHT NO. 61-12269
As Modified by Transfer No. 81212

In accordance with the approval of Transfer No. 81212, Water Right No. 61-12269 is now described as follows:

Right Holder: IDAHO WATER CO LLC
 1135 VALLEY RD S
 EDEN, ID 83325

Priority Date: 2/21/1971

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
 1.640 cfs
 1.640 cfs

Diversion Volume
 504.0 af
 504.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L5 (NWSW) Sec 19 Twp 04S Rge 05E ELMORE County
 GROUND WATER NENE Sec 30 Twp 04S Rge 05E 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	05E	19									40.0	40.0	40.0	40.0	28.0	40.0	40.0	40.0	308.0
												L 5	L 8						
04S	05E	30	40.0	40.0	40.0	40.0													160.0

Right Acre Limit: 126.0

POU Total Acres: 468.0

CONDITIONS OF APPROVAL

1. 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.
2. This right is limited to the irrigation of a specific 126.0 acres within the 468.0 acre place of use authorized by this right in a single irrigation season. The specific 126.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 126.0 acres to be irrigated within the 468.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
3. Rights 61-12269 and 61-12290 when combined shall not exceed the irrigation of 291.5 acres.

Transfer No. 81212

WATER RIGHT NO. 61-12269

As Modified by Transfer No. 81212

CONDITIONS OF APPROVAL

4. 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. 161.
5. Prior to the diversion and use of water under Transfer approval 81212, 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.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. 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.
8. The right holder shall accomplish the change authorized by this transfer within one 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. 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. 61-12290**As Modified by Transfer No. 81212**

In accordance with the approval of Transfer No. 81212, Water Right No. 61-12290 is now described as follows:

Right Holder: IDAHO WATER CO LLC
C/O DEL KOHTZ
1135 VALLEY RD S
EDEN, ID 83325

Priority Date: 3/24/1970

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From 4/01 **To** 10/31

Diversion Rate
2.750 cfs
2.750 cfs

Diversion Volume
747.4 af
747.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L5 (NWSW) Sec 19 Twp 04S Rge 05E ELMORE County
GROUND WATER NENE Sec 30 Twp 04S Rge 05E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	05E	19									40.0	40.0	40.0	40.0	28.0	40.0	40.0	40.0	308.0
04S	05E	30	40.0	40.0	40.0	40.0													160.0

Right Acre Limit: 165.5

POU Total Acres: 468.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 165.5 acres within the 468 acre place of use authorized by this right in a single irrigation season. The specific 165.5 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 165.5 acres to be irrigated within the 468 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
2. Rights 61-12269 and 61-12290 when combined shall not exceed the irrigation of 291.5 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.

Transfer No. 81212

WATER RIGHT NO. 61-12290

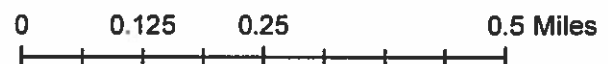
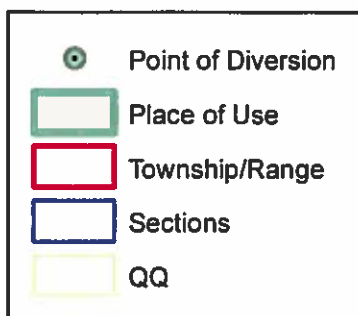
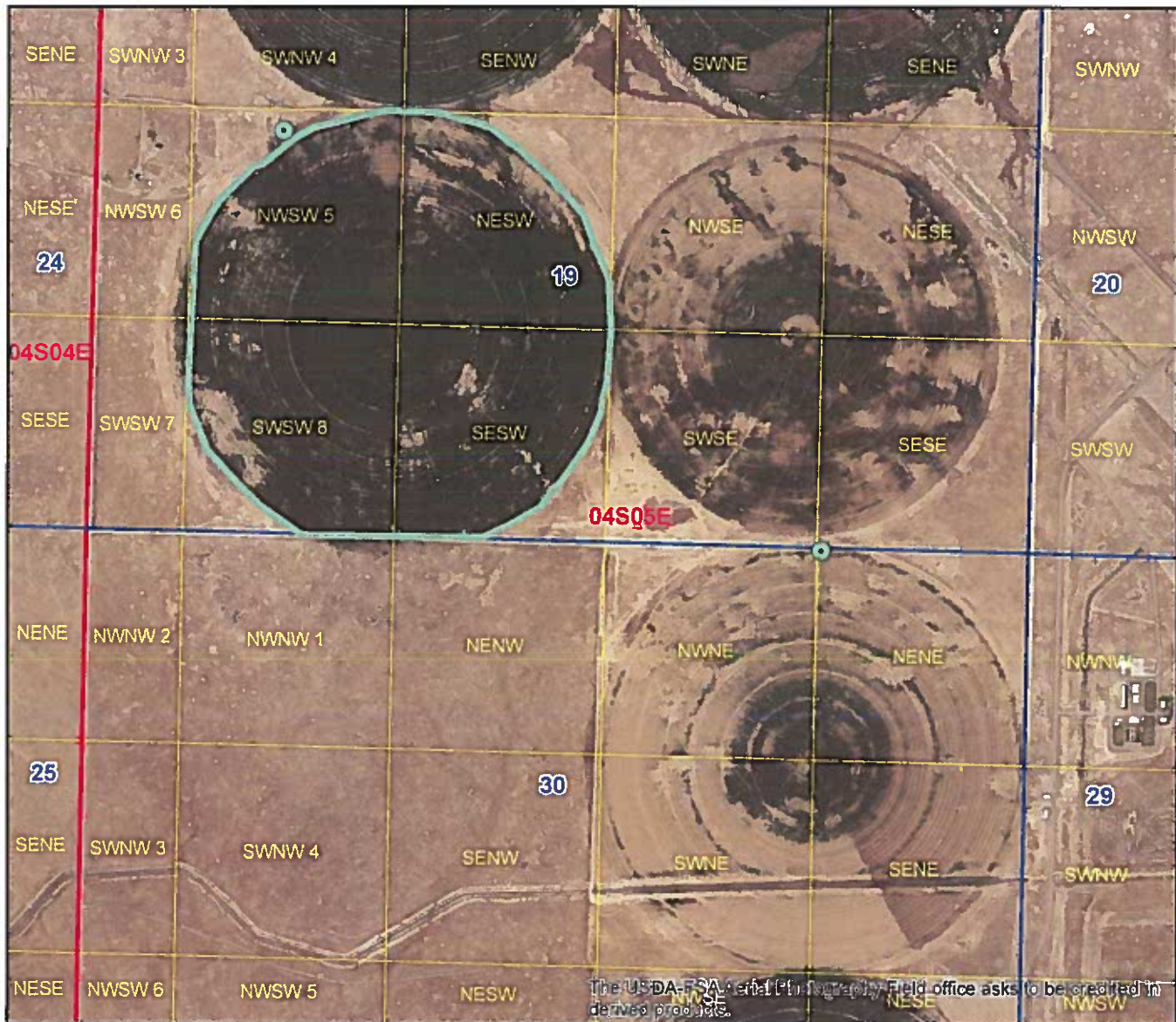
As Modified by Transfer No. 81212

CONDITIONS OF APPROVAL

4. 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. 161.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. 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 October 26, 2000.
7. The diversion and use of water described in Transfer 78560 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
8. Place of use does not include federal public lands.
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. 81212
Water Right(s): 61-12269

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.





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 30, 2017

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN ID 83325

Re: Transfer No: 81212
Water Right No(s): 61-12269, 61-12290

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.

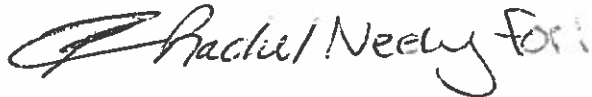
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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,

A handwritten signature in cursive script, appearing to read "Rachel Neely Fox".

Nick Miller
Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 81212
Water Right No(s): 61-12269, 61-12290

IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN ID 83325

NICK MILLER
WATERMASTER OF DISTRICT 161
IDWR WESTERN REGION



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.

MEMORANDUM

TO: Transfer No. 81212 File

FROM: Angela Grimm

DATE: 1/27/2017

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to move water right 61-12269 to a different farm approximately 4 miles west of the current location, from the east side of Mountain Home Air Force Base to the west. The transfer will change the point of diversion to two wells on an existing system and create a permissible place of use. The new point of diversion and place of use site is generally located west of the Mountain Home Air Force Base between Nielson Rd and Liberator Rd, just south of Hwy 67, approximately 11.5 miles southwest of Mountain Home.

Summary of Information Submitted

Authority to File: Right 61-12269 is owned by the applicant. The current place of use and proposed place of use property are also owned by the applicant. The application was signed by Del Kohtz, the managing member of the applicant company (Idaho Water Company LLC). Right 61-12290, also owned by the applicant, will be added to the transfer as an associated right (see Overlap Analysis section for explanation). The applicant has authority to file. Item Part 1B 5c. was left blank on the application form. The transfer instructions instruct someone to complete and attach the lien holder letter/item if the current place of use property has a lien associated with it. Since the instructions are a little unclear, I confirmed with Kevin Kohtz, member of Idaho Water Company LLC, the current POU property does not have a lien or other encumbrance.

Water Right Validity: Right 61-12269 was decreed by the SRBA court on 10/26/2000. Beneficial use within the last five years confirmed via 2015 aerial imagery.

Overlap Analysis: Right 61-12148 is also diverted from the current point of diversion. This right has a different place of use so it does not need to be included in the transfer. Condition F06 on 61-12269 will be removed based on current processing standards. The proposed PODs and system serve right 61-12290. Right 61-12290 provides irrigation water to 165.5 acres within the proposed permissible place of use. Right 61-12269 will provide an additional 126 acres. A combined use limit condition will be created acknowledging rights 61-12269 and 61-12290 are limited to a combined use of 291.5 acres within the same PPU. Right 61-12290 will be added as an associated right to add the combined use limit condition. There are no other overlapping rights at the current or proposed PODs or POUs.

Injury to Other Water Rights: Diversion is within Water District 161. Watermaster comments were solicited at time of publication. No comments were received, but conditions stating use is regulated by WD 161 watermaster and measuring devices shall be installed are included on the draft transfer approval. The land proposed for irrigation has been irrigated the past few years with water from a Water Supply Bank rental. Considering irrigation of the proposed land has occurred from the proposed

system with no known complaints along with the fact the proposal is within a water district, injury is not anticipated.

Enlargement of Use: The applicant does not propose to increase the diversion rate, volume, or number of acres irrigated. Condition 206 limiting the number of acres authorized for irrigation within the permissible place of use along with a combined use limit condition with right 61-12290 will be added to avoid enlargement. The proposed and current points are approximately four miles apart within the Mountain Home GWMA. The ground water supply is likely similar in both areas.

Local Public Interest: The current use of the water is for agricultural purposes, which the applicant proposes to maintain. Considering the diversion is within the Mountain Home GWMA and Water District 161, the transfer was published to determine any local area public concerns. No protests or comments of concern were received.

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.

AFFIDAVIT OF PUBLICATION

County of Elmore } ss.
State of Idaho

I, **Brenda M. Fincher**, do solemnly swear that I am the
Publisher 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 4th day of Jan, 2017, and the last publication having been made on the 11th day of Jan, 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.

Brenda M Fincher
Publisher

Subscribed and sworn to me this 11th day of Jan 2017.

[Signature]
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2017**.

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. 81212

IDAHO WATER CO LLC, 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 81212 for changes to the following water rights within **ELMORE** County(s): Right No(s). 61-12269; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The transfer proposes to change the diversion to two wells on an existing system and create a permissible place of use approximately 4 miles west of the current location, moving from one farm on the east side of Mountain Home Air Force Base to a different farm on the west side. The new site is generally located west of the Mountain Home Air Force Base between Nielson Rd and Liberator Rd just south of Hwy 67 approximately 11.5 miles southwest of Mountain Home.

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/WaterManagement/WaterRights. 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 1/23/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: January 4, 2017
Last Publication: January 11, 2017

✓ OK RD
1/27/17

RECEIVED

JAN 25 2017

WATER RESOURCES
WESTERN REGION

