

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 80750

This is to certify that: IDAHO WATER CO LLC
C/O DEL KOHTZ
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>
61-12290	WR/DECREED	3/24/1970	3.010 cfs	817.4 af	181.0	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>
61-12290	YES	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>
61-12290	61-12310	0.260 cfs	70.0 af	15.5	39.4	61-12290	2.750 cfs	747.4 af	165.5	468.0
COMBINED TOTALS		0.260 cfs	70.0 af	15.5	39.4		2.75 cfs	747.4 af	165.5	468.0

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 18 day of AUGUST, 2016


for Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 61-12290

Transfer No. 80750

WATER RIGHT NO. 61-12290**As Modified by Transfer No. 80750**

In accordance with the approval of Transfer No. 80750, 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 04/01 **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

			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: 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. 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. 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.

Transfer No. 80750

WATER RIGHT NO. 61-12290

As Modified by Transfer No. 80750

CONDITIONS OF APPROVAL

4. 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.
5. 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.
6. 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.
7. Place of use does not include federal public lands.
8. 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. 61-12310

As Modified by Transfer No. 80750

In accordance with the approval of Transfer No. 80750, Water Right No. 61-12310 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

04/01

To

to 10/31

Diversion Rate

0.260 cfs

0.260 cfs

Diversion Volume

70.0 af

70.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SWNW

Sec 35 Twp 03S Rge 06E 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	
03S	06E	35		2.4	13.0				5.0	19.0									39.4

Right Acre Limit: 15.5

POU Total Acres: 39.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 15.5 acres within the authorized place of use 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 place of use.
3. 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.
4. 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.

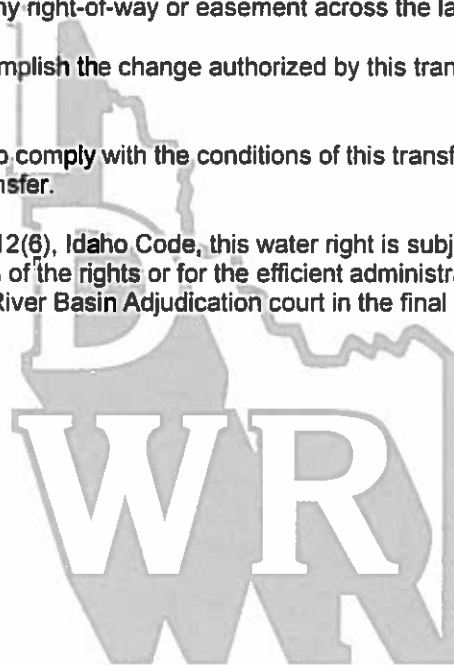
Transfer No. 80750

WATER RIGHT NO. 61-12310

As Modified by Transfer No. 80750

CONDITIONS OF APPROVAL

5. 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.
6. This right does not grant any right-of-way or easement across the land of another.
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.

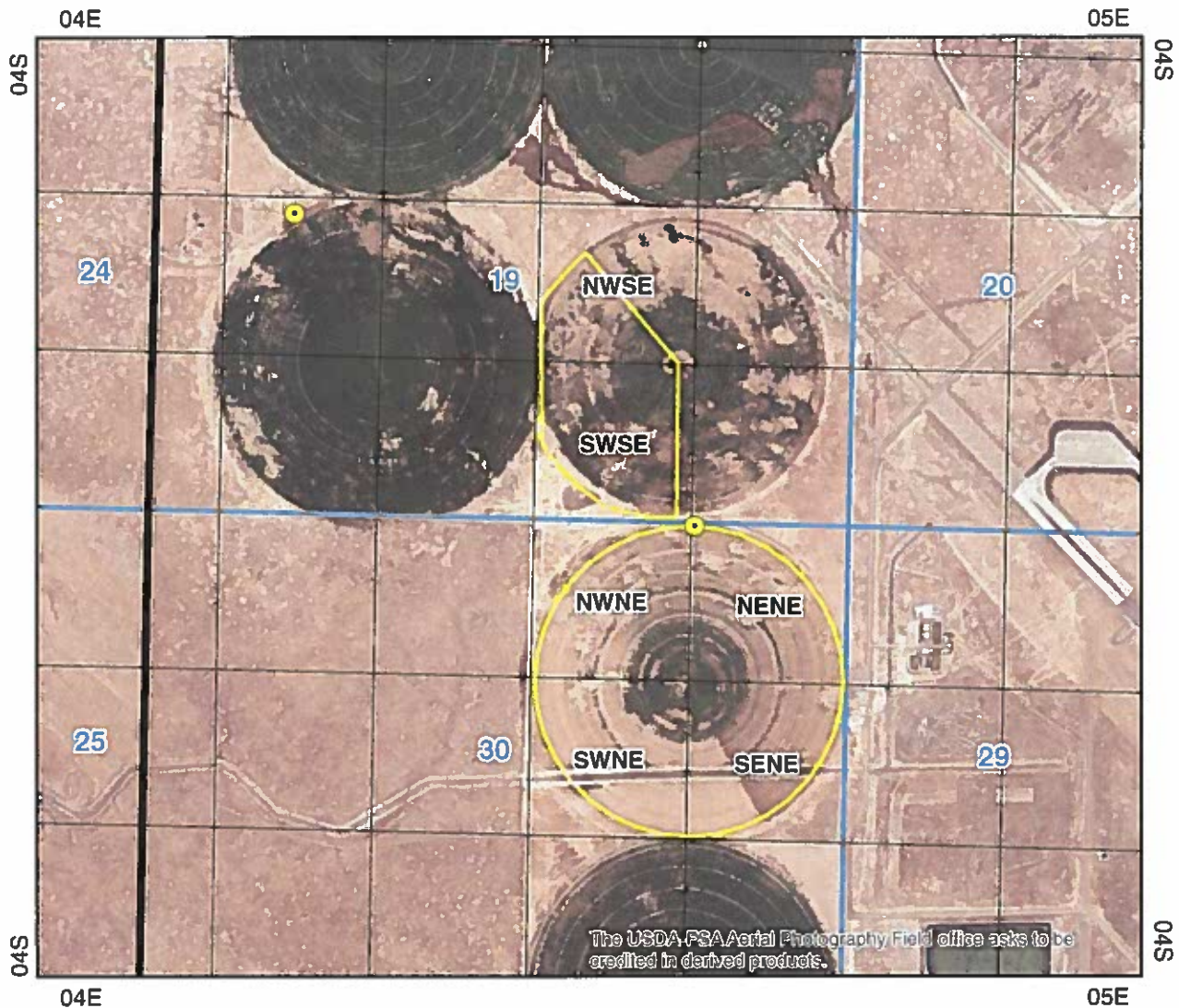


State of Idaho
Department of Water Resources

Attachment to Transfer of Water Right

61-12290

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.



- Point of Diversion
- Place of Use
- Townships
- PLS Sections

0 0.175 0.35 0.7 Miles

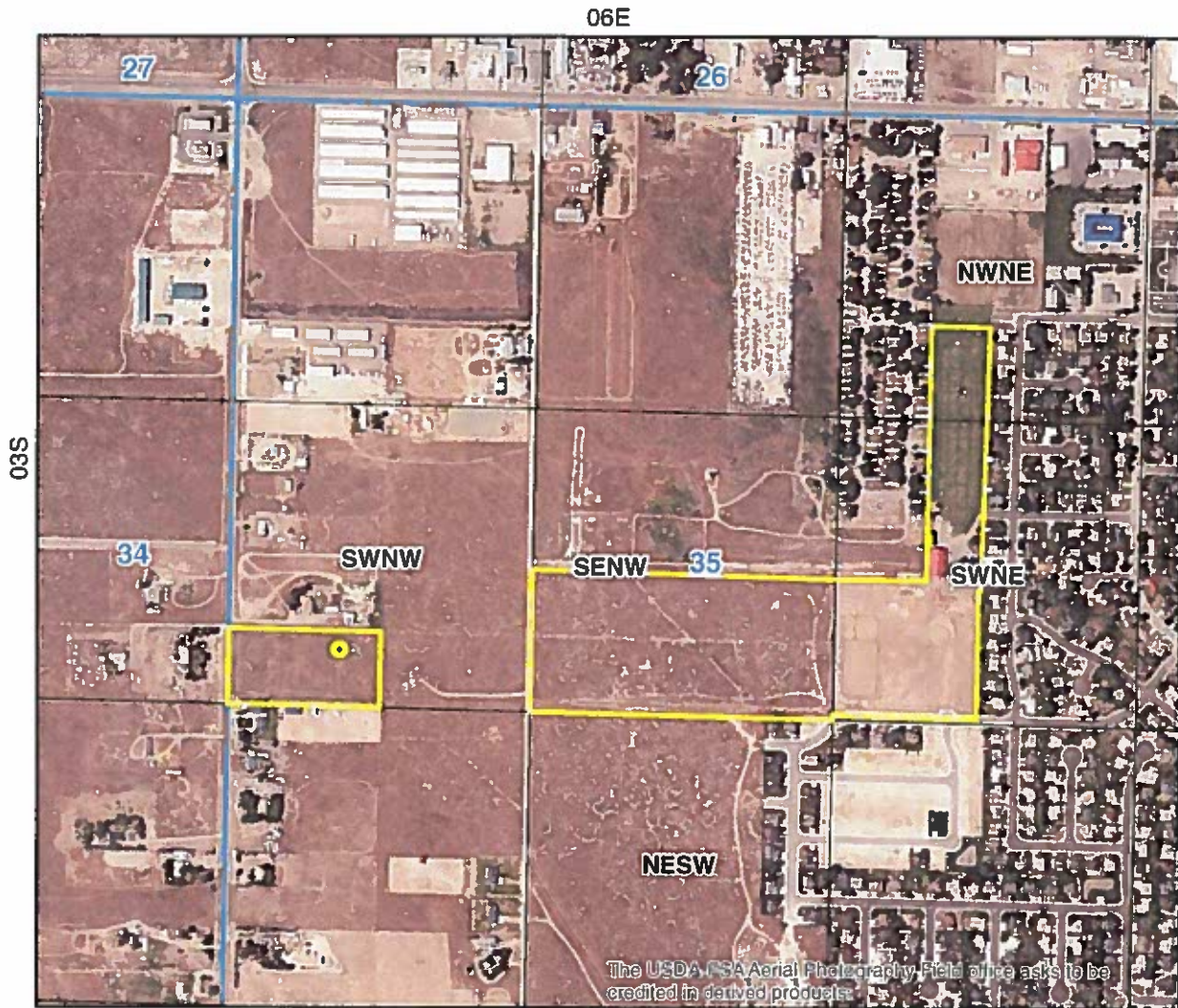


State of Idaho
Department of Water Resources

Attachment to Transfer of Water Right

61-12310

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.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.075 0.15 0.3 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 • Web Site: www.idwr.idaho.gov

August 18, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

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

Re: Transfer No: 80750
Water Right No(s): 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,

 Rachel Neely for:

Nick Miller

Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 80750
Water Right No(s): 61-12290**

**IDAHO WATER CO LLC
C/O DEL KOHTZ
1135 VALLEY RD S
EDEN ID 83325**

**NICK MILLER
WATER DISTRICT 161**



**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.

Notice

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

61-12304
SEMONE & ROB IRREVOCABLE LIVING TRUST
4421 N CRESWELL PL
BOISE, ID 83713
Point of Diversion SWNE S31 T05S R09E
ELMORE County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS
Date Filed: 6/14/2016
Place of Use: DOMESTIC
T05S R09E S31 SWNE
Domestic use is for 13 space RV mobile home park.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 80750
IDAHO WATER CO LLC, C/O DEL KOHTZ 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 80750 for changes to the following water rights within ELMORE County(s): Right No(s). 61-12290; 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 split water right 61-12290, moving 15.5 acres of irrigation use per the purchase agreement and sale of the right between Idaho Water Company LLC (seller) and Barry and Phyllis Peterson (buyer). The site receiving the transferred irrigation use is east of Hwy 51, 0.5 miles south of W 8th S 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/WaterManagement/WaterRights. 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 8/8/2016. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director

First Publication: July 20, 2016
Last Publication: July 27, 2016

AFFIDAVIT OF PUBLICATION

County of Elmore }
State of Idaho }55

I, **Cristena Ford**, do solemnly swear that I am the Business Manager 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 20th day of July, 2016, and the last publication having been made on the 27th day of July, 2016; 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.

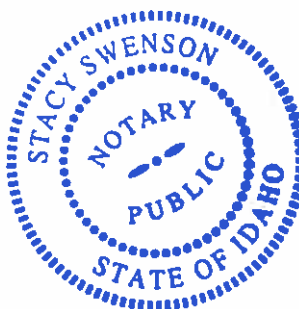
[Signature]
Business Manager

Subscribed and sworn to me this 5th day of Aug. 2016.

[Signature]
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

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



RECEIVED

AUG 03 2016

WATER RESOURCES
WESTERN REGION

RECEIVED

AUG 01 2016

WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # 161

Application # 80750

Applicant Name Idaho Water Company LLC

Watermaster Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional comments:

Dated this 1st day of August, 2016



Watermaster Signature

Nick Miller

Printed Name