

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80644**

This is to certify that: BRENT W MULKEY
1008 HWY 28
SALMON, ID 83467-5303

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>
74-16041	WR/DECREED	6/1/1872	0.600 cfs	N/A	N/A	30.0	SANDY CREEK
74-2158	WR/DECREED	8/8/1913	1.000 cfs	N/A	N/A	50.8	PRATT 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>
74-16041	NO	YES	YES	NO	NO	NO
74-2158	NO	NO	YES	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>
74-16041	74-16041	0.600 cfs	N/A	30.0	31.0	N/A	N/A	N/A	N/A	N/A
74-2158	74-2158	0.590 cfs	N/A	29.8	31.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.190 cfs	N/A	31.0	31.0		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 9th day of August, 2016.



Pamela S. Skaggs, Water Rights Supervisor

WATER RIGHT NO. 74-2158

As Modified by Transfer No. 80644

In accordance with the approval of Transfer No. 80644, Water Right No. 74-2158 is now described as follows:

Right Holder: BRENT W MULKEY
1008 HWY 28
SALMON, ID 83467-5303

Priority Date: 8/9/1913

Source: PRATT CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

to 11/15

To

Diversion Rate

0.590 cfs
0.590 cfs

LOCATION OF POINT(S) OF DIVERSION

PRATT CREEK	SWNE	Sec 11	Twp 20N	Rge 23E	LEMHI County	
PRATT CREEK	SWNW	Sec 11	Twp 20N	Rge 23E	LEMHI County	(R)
PRATT CREEK	SESW	Sec 11	Twp 20N	Rge 23E	LEMHI County	(I)

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	
20N	23E	2											18						18
20N	23E	11						13											13

Right Acre Limit: 29.8

POU Total Acres: 31.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 29.8 acres within the authorized place of use in a single irrigation season.
2. Rights 74-2158 and 74-16041 when combined shall not exceed the irrigation of 31.0 acres.
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 74F, Pratt Creek. Injection of Pratt Creek water into and rediversion from Sandy Creek will be regulated by the watermaster of State Water District No. 74G, Sandy Creek. Delivery accounting of this right will be governed by the watermaster of Water District 74G with regulation authority shared by Water District 74F and Water District 74G.

Transfer No. 80644

WATER RIGHT NO. 74-2158
As Modified by Transfer No. 80644

CONDITIONS OF APPROVAL

4. Rediversion of water is limited to those times water is available for diversion under this right and priority from Pratt Creek and the amount of water actually injected into Sandy Creek.
5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow in Pratt Creek at the original point of diversion, at the point of injection into Sandy Creek, and at the point of rediversion from Sandy Creek.
6. A lockable device subject to the approval of the Department shall be maintained on the diverting works from Sandy Creek in a manner that will provide the watermaster suitable control of the rediversion of Pratt Creek water.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
8. 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.
9. This right does not grant any right-of-way or easement across the land of another.
10. The following rights are diverted through point(s) of diversion, injection, and/or rediversion described above: 74-2158, 74-465, 74-192, 74-16041 and 74-16040.
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. 74-16041
As Modified by Transfer No. 80644

In accordance with the approval of Transfer No. 80644, Water Right No. 74-16041 is now described as follows:

Right Holder: BRENT W MULKEY
 1008 HWY 28
 SALMON, ID 83467-5303

Priority Date: 6/1/1872

Source: SANDY CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE
 IRRIGATION

From 03/15 to **To** 11/15

Diversion Rate
 0.600 cfs
 0.600 cfs

LOCATION OF POINT(S) OF DIVERSION

SANDY CREEK SWNW Sec 11 Twp 20N Rge 23E LEMHI 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	
20N	23E	2											18						18
20N	23E	11						13											13

Right Acre Limit: 30.0

POU Total Acres: 31

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 30.0 acres within the authorized place of use in a single irrigation season.
2. Rights 74-2158 and 74-16041 when combined shall not exceed the irrigation of 31.0 acres.
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. 74G, Sandy Creek.
4. 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).
5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Transfer No. 80644

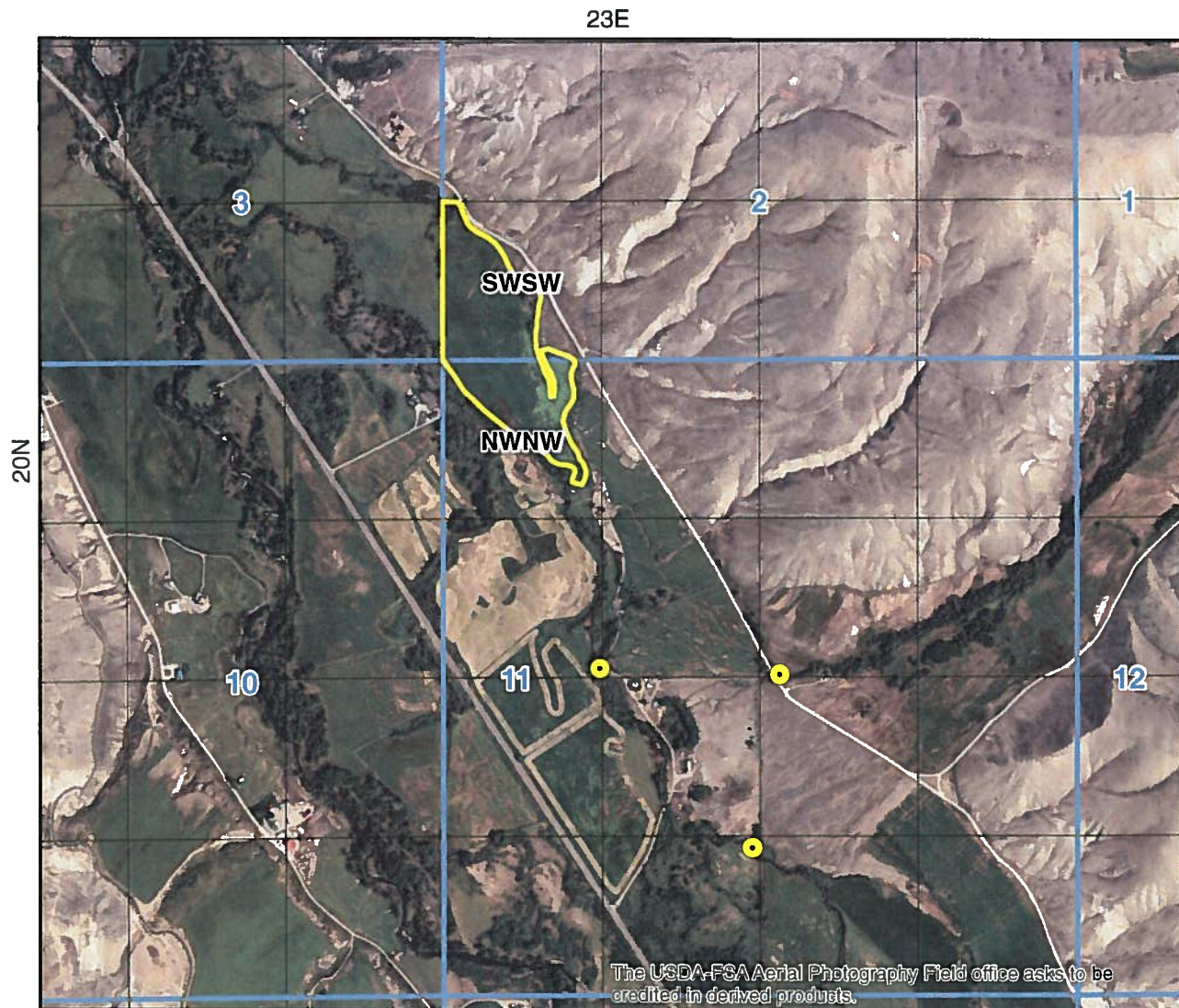
WATER RIGHT NO. 74-16041
As Modified by Transfer No. 80644

CONDITIONS OF APPROVAL

6. 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.
7. This right does not grant any right-of-way or easement across the land of another.
8. The following rights are diverted through point(s) of diversion described above: 74-2158 and 74-465.
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 Transfer No. 80644
Rights 74-2158 & 74-16041

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 0.175 0.35 0.7 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 10, 2016

BRENT W MULKEY
1008 HWY 28
SALMON ID 83467-5303

Re: Transfer No: 80592
Water Right No(s): 74-192, 74-468, 74-2158

Transfer No: 80644
Water Right No(s): 74-2158, 74-16041

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)287-4951.

Sincerely,



Pamela Skaggs

Water Rights Supervisor

Enclosure

c: WATER DISTRICT #74F
WATER DISTRICT #74G
MARY E SLOAN
ZENAS HARTVIGSON TRUST DBA BRIER ROSE RANCH LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing Preliminary Order (**TRANSFER APPROVAL**) to the person(s) listed below:

Re:

Transfer No.: 80592
Water Right No(s): 74-192, 74-468, 74-2158

Transfer No: 80644
Water Right No(s): 74-2158, 74-16041

BRENT W MULKEY
1008 HWY 28
SALMON ID 83467-5303

MARY E SLOAN
1063 LEMHI RD
SALMON ID 83467

ZENAS HARTVIGSON TRUST DBA BRIER ROSE RANCH LLC
PO BOX 246
IDLEDALE CO 80453

WATER DISTRICT #74F
DAVID M ANTONELLI
17 SHOFIELD LN
SALMON ID 83467

WATER DISTRICT #74G
PAT MCCONNAGY
373 SANDY CREEK LN
SALMON ID 83467



Darla Block
Technical Records Specialist

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.