

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 79780**

This is to certify that: **AMY HEFFNER AND
RANDY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND, ID 83629**

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>
65-3803B	WR/DECREED	12/23/1888	3.970 cfs	N/A	N/A	174.0	HILL CREEK

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>
65-7833	WR/DECREED	4/23/1977	1.590 cfs	495.0 af		110.0	PAYETTE RIVER

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>
65-3803B	NO	YES	NO	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>
65-3803B	65-3803B	3.970 cfs	N/A	N/A	174.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.970 cfs	N/A	N/A	174.0		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 13th day of November, 2015.


for Chief, Water Allocation Bureau

Transfer No. 79780

SUPPORT DATA

IN FILE # 63-3803B

WATER RIGHT NO. 65-3803B**As Modified by Transfer No. 79780**

In accordance with the approval of Transfer No. 79780, Water Right No. 65-3803B is now described as follows:

Right Holder: RANDY HEFFNER AND/OR
AMY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND, ID 83629

Priority Date: 12/23/1888

Source: HILL CREEK

Tributary: PAYETTE RIVER

BENEFICIAL USE
IRRIGATION

From 4/01 **To** 11/01

Diversion Rate
3.970 cfs
3.970 cfs

LOCATION OF POINT(S) OF DIVERSION

HILL CREEK SENE Sec 1 Twp 07N Rge 02E BOISE 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	
07N	02E	1						2.0	10.0	7.0		10.0	12.0						41.0
								L 4											
07N	02E	2	4.0	4.0	28.0	39.0									32.0	26.0			133.0
			L 1	L 2															

POU Total Acres: 174.0

CONDITIONS OF APPROVAL

1. 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. 65.
2. 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).
3. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 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 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
4. Use of this right with right no. 65-7833 is limited to a total combined diversion rate of 0.02 cfs per acre and a total combined annual diversion volume of 4.5 acre feet per acre.

Transfer No. 79780

WATER RIGHT NO. 65-3803B
As Modified by Transfer No. 79780

CONDITIONS OF APPROVAL

5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



WATER RIGHT NO. 65-7833
As Modified by Transfer No. 79780

In accordance with the approval of Transfer No. 79780, Water Right No. 65-7833 is now described as follows:

Right Holder: AMY HEFFNER AND/OR
 RANDY HEFFNER
 14 HILL CREEK RD
 HORSESHOE BEND, ID 83629

Priority Date: 4/23/1977

Source: PAYETTE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
 IRRIGATION

From 09/15 **To** 10/31

Diversion Rate
 1.590 cfs
 1.590 cfs

Diversion Volume
 495.0 af
 495.0 af

LOCATION OF POINT(S) OF DIVERSION

PAYETTE RIVER L6 (NESW) Sec 2 Twp 07N Rge 02E BOISE 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	
07N	02E	1						2.0	6.0						15.0	20.0			8.0
07N	02E	2	2.0		25.0	40.0													102.0
			L 1																

POU Total Acres: 110.0

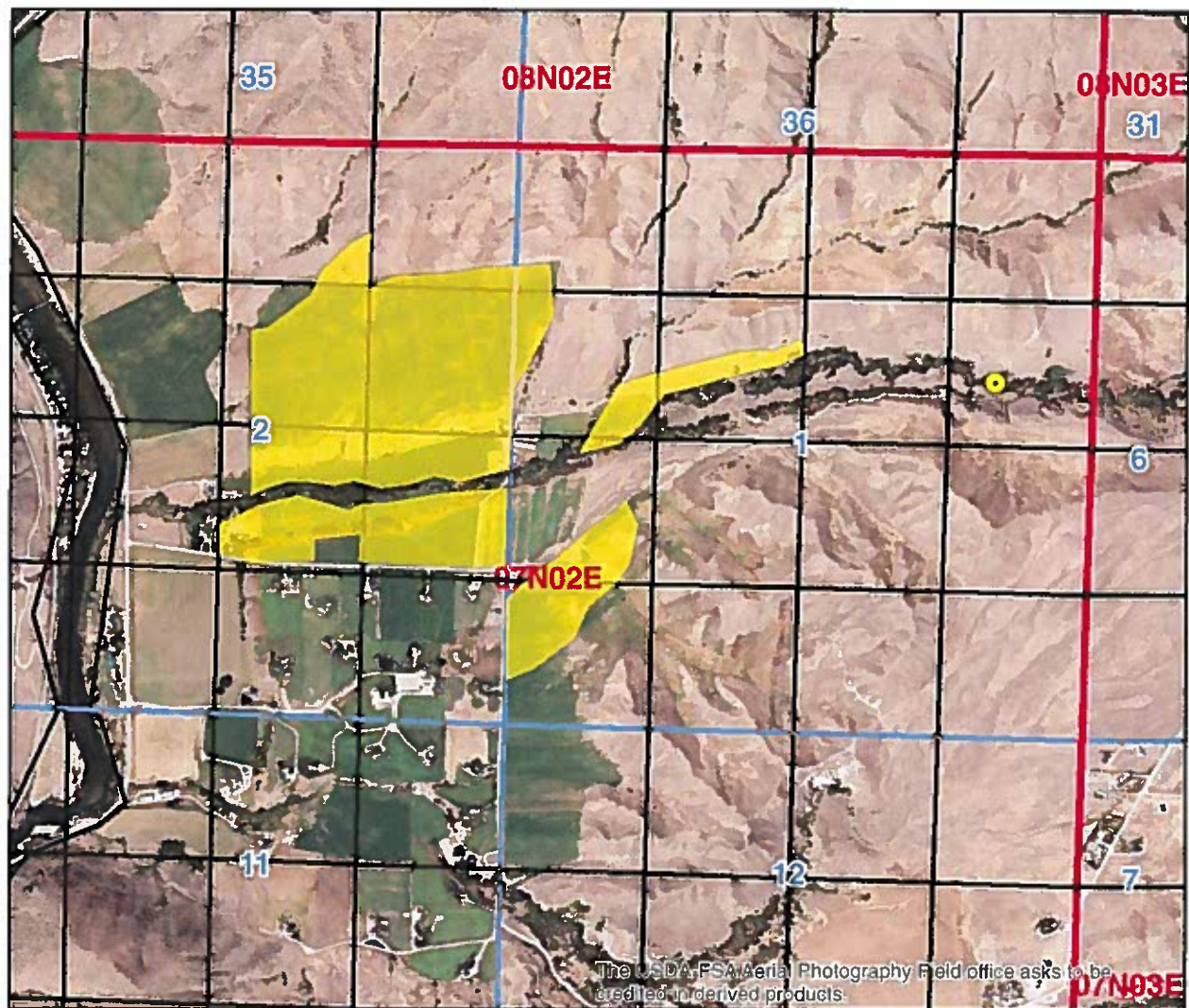
CONDITIONS OF APPROVAL

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 THIS RIGHT WITH RIGHT NO. 65-03803B IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS PER ACRE AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 ACRE FEET PER ACRE.

Transfer No. 79780

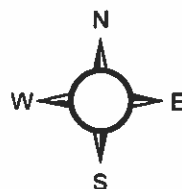
State of Idaho
Department of Water Resources
Application For Transfer No. 79780
Water Right No. 65-3803B

This map depicts the IRRIGATION place of use boundary and point of diversion for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Legend

-  65-3803B_Point_of_Diversion
-  65-3803B_Place_of_Use
-  Townships
-  PLS Sections
-  Quarter Quarters



2013 aerial imagery



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

November 16, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

AMY HEFFNER
RANDY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND ID 83629

Re: Transfer No: 79780
Water Right No(s): 65-3803B , 65-7833

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.

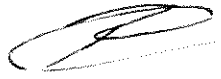
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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

Enclosure

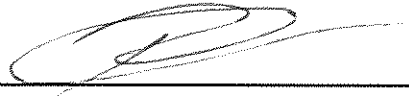
CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 79780
Water Right No(s): 65-3803B , 65-7833**

**AMY HEFFNER
RANDY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND ID 83629**

**RON SHURTLEFF
WATERMASTER OF DISTRICT 65
102 N MAIN
PAYETTE ID 83661**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**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

Date: July 7, 2015
To: File
From: Nick Van Dyke
Re: Analysis of Transfer 79780, Heffner

Narrative: This transfer proposes to remove one point of diversion of record for 65-3803B off Hill Creek, tributary to the Payette River near Horseshoe Bend. ~~One~~ ^{one} point of diversion will remain on the water right, roughly ½ mile upstream. No other changes proposed.

Right 65-7833 (source Payette River) partially overlaps the place of use and will be brought in as an associated right. Both rights currently have a combined limit of 0.02 cfs per acre and 4.5 acre feet at the headgate. This appears to be an error in that it should read 4.5 acre feet per acre. This will be addressed in the transfer approval. Right authorizes a season of use at 4/1 to 11/1 – condition X61 will be used to extend season to current standard of 3/15-10/31 (will bookend only early portion, don't see value in adding late season addition of one day).

Authority to File: Randy Heffner, owner of record for 65-3803B, signed the application.

Water Right Validity: 65-3803B decreed in August of 2004. No evidence of forfeiture found.

Injury to Other Water Rights: None anticipated. There are no other diversions between the diversion being removed from record and upstream diversion. Watermaster comment letter sent, no response received.

Enlargement of Use: No enlargement concerns.

Local Public Interest: No issues identified. Application was advertised, no protests were received.

Beneficial Use/Conservation of Water Resources: No issues identified. Review of the application finds there is not clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.