

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78428

This is to certify that: BLACK MESA FARMS LLC
PO BOX 82
GLENN'S FERRY, ID 83623

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>
2-103	WR/DECREED	5/10/1965	3.960 cfs	N/A	198.0	3948.0	SNAKE RIVER
2-2209B	WR/DECREED	2/25/1963	12.800 cfs	2142.0 af	640.0	3948.0	SNAKE 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>
2-103	NO	NO	YES	NO	NO	NO
2-2209B	NO	NO	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>
2-103	2-103	3.960 cfs	N/A	198.0	3948.0	N/A	N/A	N/A	N/A	N/A
2-2209B	2-2209B	12.800 cfs	2142.0 af	640.0	3948.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		16.760 cfs	N/A	838.0	3948.0		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 22nd day of July, 2015.


for Chief, Water Allocation Bureau

SUPPORT DATA
IN FILE # 2-103

Transfer No. 78428

WATER RIGHT NO. 2-2209B**As Modified by Transfer No. 78428**

In accordance with the approval of Transfer No. 78428, Water Right No. 2-2209B is now described as follows:

Right Holder: BRENDA BRYANT OR
DON J BRYANT
PO BOX 215
GLENNS FERRY, ID 83623
OR
WESLEY R WOOTAN OR
CHRISTINE W. WOOTAN
PO BOX 636
GLENNS FERRY, ID 83623
OR
BLACK MESA FARMS LLC
PO BOX 82
GLENNS FERRY, ID 83623

Priority Date: 2/25/1963

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

12.800 cfs

12.800 cfs

Diversion Volume

2142.0 af

2142.0 af

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER

L6 (NWSW)

Sec 9 Twp 06S Rge 11E 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	
06S	10E	1									35.0		39.0	40.0		30.0	40.0	30.0	214.0
06S	10E	2																39.0	39.0
06S	10E	11	40.0		40.0	39.0					40.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	438.0
06S	10E	12	40.0	40.0	40.0	40.0	40.0	39.0	39.0	40.0	40.0	39.0	38.0	21.0	40.0	40.0	39.0	39.0	614.0
06S	10E	13	39.0	39.0	40.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0			40.0	40.0	40.0	40.0	556.0
06S	10E	14	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0				39.0	30.0			428.0
06S	10E	24	40.0	39.0	40.0	40.0									40.0	40.0			239.0
06S	11E	6											10.0						10.0
													L 7						
06S	11E	7	25.0	25.0	40.0	40.0	30.0	37.0	37.0	40.0	40.0	38.0	37.0	39.0	40.0	40.0	39.0	40.0	587.0
								L 1	L 2			L 3	L 4						
06S	11E	17						40.0	40.0			40.0							120.0
06S	11E	18	38.0	39.0	40.0	39.0	39.0	37.0	38.0	40.0	40.0	38.0	38.0	40.0	40.0	40.0	40.0		586.0
								L 1	L 2			L 3	L 4						
06S	11E	19						39.0	39.0			39.0							117.0
								L 1	L 2			L 3							

Right Acre Limit: 640.0

POU Total Acres: 3948.0

Transfer No. 78428

WATER RIGHT NO. 2-2209B
As Modified by Transfer No. 78428

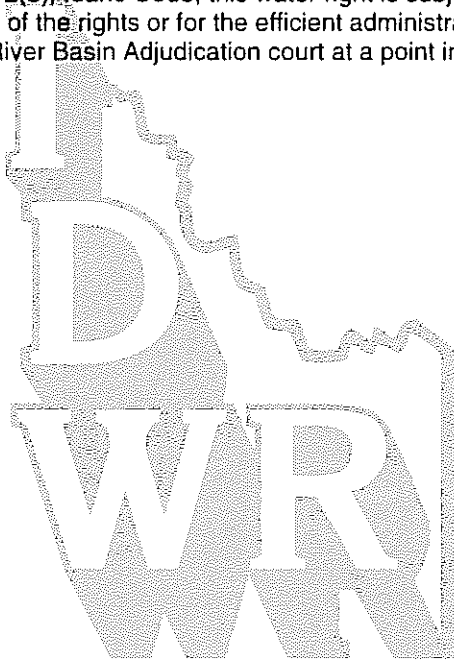
CONDITIONS OF APPROVAL

1. 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 June 15, 2009.
2. This right is limited to the irrigation of 640 acres within the authorized place of use in a single irrigation season.
3. This right does not grant any right-of-way or easement across the land of another.
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. 02.
5. 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.
6. 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.
7. The following rights are diverted through the point of diversion described above: 2-103, 2-2209B, 2-4021, 2-10189 & 2-10450.
8. Combined rights 2-103 and 2-2209B are limited to the irrigation of crops from a specific 838 acres within the 3,948 acre place of use authorized by the rights in a single irrigation season. The specific 838 acres to be irrigated by the right holder are shown in the electronic shape file associated with the rights in the geographic information system component of the water rights database maintained by the Department. Once per irrigation season, the right holder may designate a different 838 acres within the 3,948 acre place of use for irrigation in the next irrigation season. Application of water to the 838 acres designated for irrigation in the next season may commence in the fall of the current irrigation season to till, apply chemicals, or establish fall planting in preparation for the next irrigation season. Before applying water in the fall to the 838 acres to be irrigated in the next irrigation season, the right holder shall submit a new land list and representative electronic shape file or map to the Department and to the watermaster of Water District 02 and shall cease irrigation and complete harvest on the lands that have been irrigated in the current irrigation season and are to be idled in the next irrigation season.
9. The application of water in the fall of the current irrigation season to till, apply chemicals, or establish fall planting in preparation for the next irrigation season shall not include application of water to irrigate crops for harvest in the same fall and shall not exceed 487.5 acre feet in any year.
10. The watermaster of Water District 02 shall monitor the place of use and regulate the use of water under the approved transfer pursuant to these conditions of approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 2-2209B
As Modified by Transfer No. 78428

CONDITIONS OF APPROVAL

12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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. 2-103**As Modified by Transfer No. 78428**

In accordance with the approval of Transfer No. 78428, Water Right No. 2-103 is now described as follows:

Right Holder: BLACK MESA FARMS LLC
PO BOX 82
GLENN'S FERRY, ID 83623
OR
WESLEY R WOOTAN OR
CHRISTINE W WOOTAN
PO BOX 636
GLENN'S FERRY, ID 83623
OR
DON J BRYANT OR
BRENDA BRYANT
PO BOX 215
GLENN'S FERRY, ID 83623

Priority Date: 5/10/1965

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

03/15

To

to 11/15

Diversion Rate

3.960 cfs

3.960 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L6 (NWSW) Sec 9 Twp 06S Rge 11E 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	
06S	10E	1									35.0		39.0	40.0		30.0	40.0	30.0	214.0
06S	10E	2																39.0	39.0
06S	10E	11	40.0		40.0	39.0					40.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	438.0
06S	10E	12	40.0	40.0	40.0	40.0	40.0	39.0	39.0	40.0	40.0	39.0	38.0	21.0	40.0	40.0	39.0	39.0	614.0
06S	10E	13	39.0	39.0	40.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0			40.0	40.0	40.0	40.0	556.0
06S	10E	14	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0				39.0	30.0			428.0
06S	10E	24	40.0	39.0	40.0	40.0									40.0	40.0			239.0
06S	11E	6											10.0						10.0
													L 7						
06S	11E	7	25.0	25.0	40.0	40.0	30.0	37.0	37.0	40.0	40.0	38.0	37.0	39.0	40.0	40.0	39.0	40.0	587.0
								L 1	L 2			L 3	L 4						
06S	11E	17						40.0	40.0			40.0							120.0
06S	11E	18	38.0	39.0	40.0	39.0	39.0	37.0	38.0	40.0	40.0	38.0	38.0	40.0	40.0	40.0	40.0		586.0
								L 1	L 2			L 3	L 4						
06S	11E	19						39.0	39.0			39.0							117.0
								L 1	L 2			L 3							

Right Acre Limit: 198.0

POU Total Acres: 3948.0

Transfer No. 78428

WATER RIGHT NO. 2-103
As Modified by Transfer No. 78428

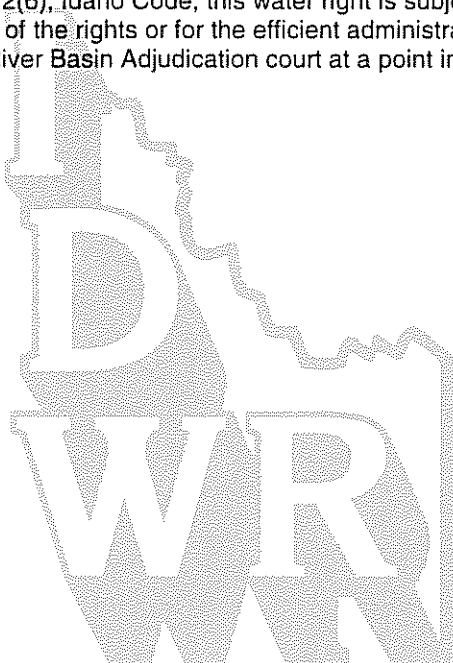
CONDITIONS OF APPROVAL

1. Other water rights have been decreed with a place of use within portions of the decreed place of use for this water right and water right 2-2209B. However, only water right nos. 2-103 and 2-2209B are currently beneficially used on the decreed place of use for this right and water right 2-2209B. No transfer or other administrative or judicial action affecting the place of use of any other water right shall affect the right to the use of water under this water right or water right no. 2-2209B at the above described place of use.
2. This right is limited to the irrigation of 198 acres within the authorized place of use in a single irrigation season.
3. This right does not grant any right-of-way or easement across the land of another.
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. 02.
5. 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.
6. 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.
7. Combined rights 2-103 and 2-2209B are limited to the irrigation of crops from a specific 838 acres within the 3,948 acre place of use authorized by the rights in a single irrigation season. The specific 838 acres to be irrigated by the right holder are shown in the electronic shape file associated with the rights in the geographic information system component of the water rights database maintained by the Department. Once per irrigation season, the right holder may designate a different 838 acres within the 3,948 acre place of use for irrigation in the next irrigation season. Application of water to the 838 acres designated for irrigation in the next season may commence in the fall of the current irrigation season to till, apply chemicals, or establish fall planting in preparation for the next irrigation season. Before applying water in the fall to the 838 acres to be irrigated in the next irrigation season, the right holder shall submit a new land list and representative electronic shape file or map to the Department and to the watermaster of Water District 02 and shall cease irrigation and complete harvest on the lands that have been irrigated in the current irrigation season and are to be idled in the next irrigation season.
8. The application of water in the fall of the current irrigation season to till, apply chemicals, or establish fall planting in preparation for the next irrigation season shall not include application of water to irrigate crops for harvest in the same fall and shall not exceed 487.5 acre feet in any year.
9. The watermaster of Water District 02 shall monitor the place of use and regulate the use of water under the approved transfer pursuant to these conditions of 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. The following rights are diverted through the point of diversion described above: 2-103, 2-2209B, 2-4021, 2-10189 & 2-10450.

WATER RIGHT NO. 2-103
As Modified by Transfer No. 78428

CONDITIONS OF APPROVAL

12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 23, 2015

BLACK MESA FARMS LLC
PO BOX 82
GLENN'S FERRY ID 83623

Re: Transfer No: 78428
Water Right No(s): 2-103, 2-2209B

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,



Nick Miller for:

Nick Miller

Western Regional Manager

Enclosure

CC:

GIVENS PURSLEY LLP
C/O MICHAEL P LAWRENCE
601 W BANNOCK ST
PO BOX 2720
BOISE ID 83701-2720

IDAHO POWER CO
C/O BARKER RSHOLT SIMPSON
ATTN JOHN K SIMPSON
1010 W JEFFERSON STE 102
BOISE ID 83702

CERTIFICATE OF SERVICE

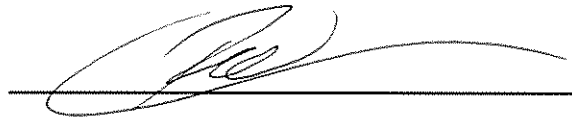
I hereby certify that on July 23, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 78428
Water Right No(s): 2-103, 2-2209B**

**BLACK MESA FARMS LLC
PO BOX 82
GLENN'S FERRY ID 83623**

**IDAHO POWER CO
C/O BARKER ROSHOLT SIMPSON
ATTN JOHN K SIMPSON
1010 W JEFFERSON STE 102
BOISE ID 83702**

**GIVENS PURSLEY LLP
C/O MICHAEL P LAWRENCE
601 W BANNOCK ST
PO BOX 2720
BOISE ID 83701-2720**

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.



State of Idaho

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 23, 2015

CORBIN KNOWLES
322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Application for Transfer No. 78428

Dear Corbin Knowles:

I have attached a permit approval for your convenience. This was sent to the applicants and to other interested parties on July 23, 2015.

Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel Neely', with a long, sweeping horizontal line extending to the right.

Rachel Neely
Administrative Assistant
Western Regional Office

Enclosures

Miller, Nick

From: Michael C Creamer [mcc@givenspursley.com]
Sent: Tuesday, July 21, 2015 3:12 PM
To: 'John Simpson'; Grimm, Angie
Subject: RE: Black Mesa Transfer App 78428 [IWOV-GPDMS.FID564845]
Attachments: Draft Transfer of Water Right - 78428.pdf

John and Angie,

I was able to speak with Chris Bryant with Black Mesa Farms this afternoon and Black Mesa Farms has no objection to the conditions IDWR is proposing for the Transfer as set out in the attached Draft.

Sincerely,

Mike Creamer

Michael C. Creamer
Givens Pursley LLP
601 W. Bannock St.
Boise, ID 83702
Direct: 208-388-1247
Main: 208-388-1200
Fax: 208-388-1300
www.givenspursley.com

From: John Simpson [mailto:jks@idahowaters.com]
Sent: Tuesday, July 21, 2015 2:36 PM
To: Angie.Grimm@idwr.idaho.gov
Cc: Michael C Creamer
Subject: Black Mesa Transfer App 78428

Angie,

I had an opportunity to review the draft approval and have no objections to the conditions included.

Thank you.

John K. Simpson
Barker Rosholt & Simpson LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, Idaho 83701-2139
Phone: 208.336.0700
Fax: 208.344.6034
www.idahowaters.com

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