

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT  
TRANSFER NO. 79710

This is to certify that: EDWARD & KAREN GILHULY TRUST  
376 MOUNTAIN HOME CT  
WOODSIDE, CA 94062

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>     |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|-------------------|
| 37-2165B           | WR/DECREED          | 11/26/1909           | 0.150 cfs             | N/A                     | N/A               | 6.7                | ADAMS GULCH CREEK |

**Purpose of Transfer (Changes Proposed)**

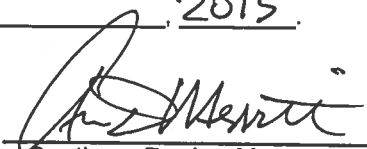
| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-2165B              | NO           | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-2165B               | 37-2165B                         | 0.150 cfs            | N/A                    | N/A               | 6.7                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.150 cfs</b>     | <b>N/A</b>             | <b>N/A</b>        | <b>6.7</b>         |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

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 23<sup>rd</sup> day of February, 2015.

  
Southern Region Manager

**WATER RIGHT NO. 37-2165B**  
**As Modified by Transfer No. 79710**

In accordance with the approval of Transfer No. 79710, Water Right No. 37-2165B is now described as follows:

**Right Holder:** EDWARD & KAREN GILHULY TRUST  
376 MOUNTAIN HOME CT  
WOODSIDE, CA 94062

**Priority Date:** 11/26/1909

**Source:** ADAMS GULCH CREEK      **Tributary:** BIG WOOD RIVER

|                              |                    |                  |                              |
|------------------------------|--------------------|------------------|------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> |
| IRRIGATION                   | 04/15              | to 10/15         | 0.150 cfs<br>0.150 cfs       |

**LOCATION OF POINT(S) OF DIVERSION**

ADAMS GULCH CREEK      SWSWSW      Sec 1    Twp 04N Rge 17E    BLAINE 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 |        |
| 04N | 17E | 1   |    |    |    |    |    |    |    |    |    |    | 6.7 |    |    |    |    |    | 6.7    |

POU Total Acres:      6.7

**CONDITIONS OF APPROVAL**

1. 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.
2. 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.37.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. This right is a split from former right 37-2165.
5. The remainder of this right was forfeited for non-use from 1910 to 1987.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No.    79710

**WATER RIGHT NO. 37-2165B**  
**As Modified by Transfer No. 79710**

**CONDITIONS OF APPROVAL**

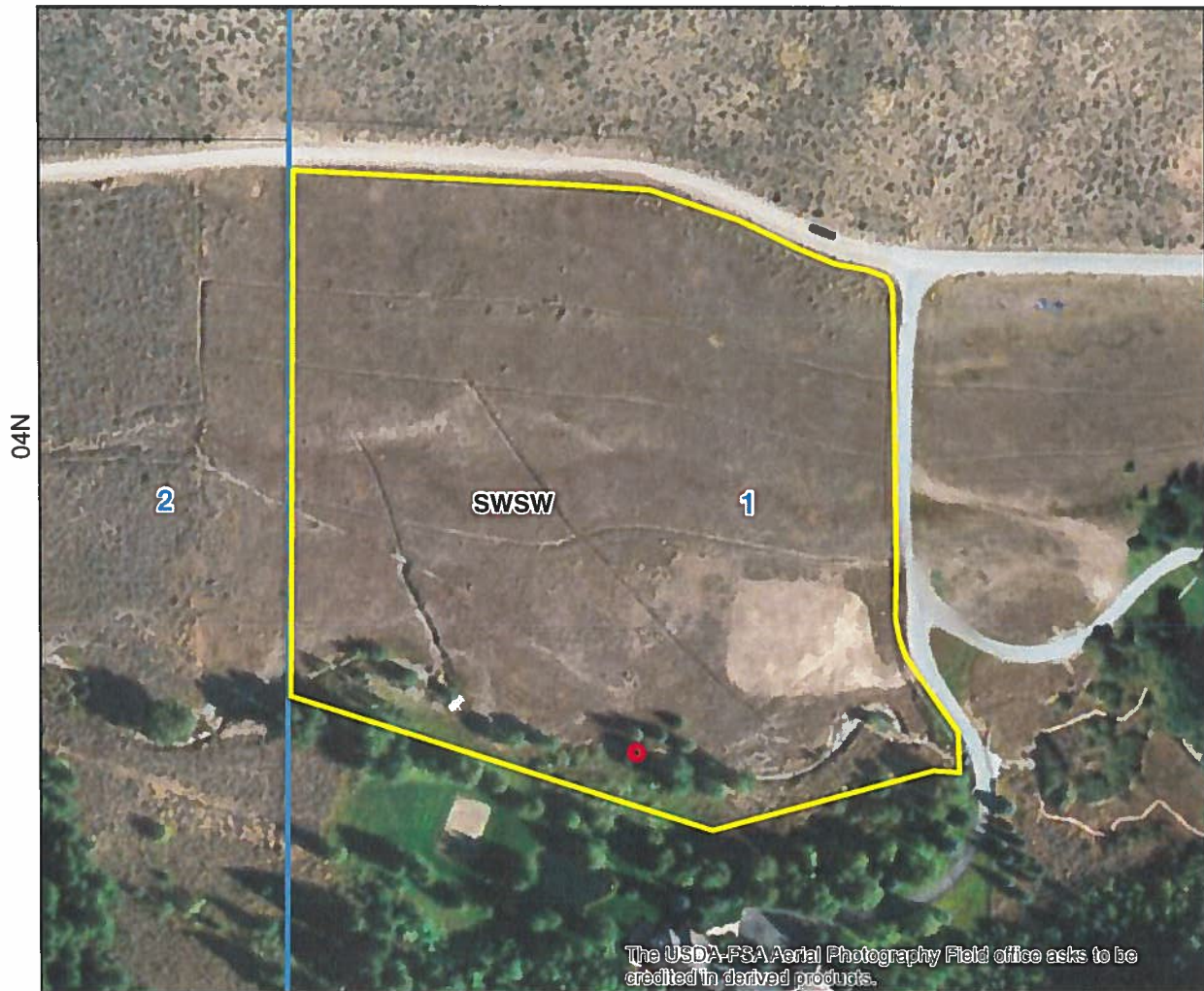
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as 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  
**Attachment To Transfer No. 79710**  
37-2165B

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.

17E



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

0 0.02 0.04 0.08 Miles





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858  
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

February 23, 2015

EDWARD & KAREN GILHULY TRUST  
376 MOUNTAIN HOME CT  
WOODSIDE CA 94062

Re: Transfer No: 79710  
Water Right No(s): 37-2165B

### 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) 736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large, sweeping initial "A" and a cursive "Merritt".

Allen Merritt  
Southern Regional Manager

Enclosure

cc:

SPECK & AANESTAD  
C/O JAMES P SPECK  
PO BOX 987  
KETCHUM ID 83340

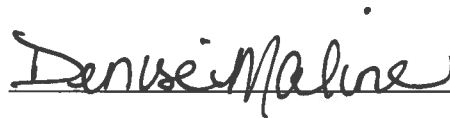
## **CERTIFICATE OF SERVICE**

I hereby certify that on February 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.: 79710  
Water Right No(s): 37-2165B**

**EDWARD & KAREN GILHULY TRUST  
376 MOUNTAIN HOME CT  
WOODSIDE CA 94062**

**SPECK & AANESTAD  
C/O JAMES P SPECK  
PO BOX 987  
KETCHUM ID 83340**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline  
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

## DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

February 23, 2015

KEVIN LAKEY WATERMASTER  
WATER DISTRICT # 37  
107 W 1<sup>ST</sup> ST  
SHOSHONE, ID 83352

***Via e-mail***

Re: **APPROVED Transfer No. 79710 (Edward & Karen Gilhuly Trust)**

Dear Mr. Lakey:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline".

Denise Maline  
Administrative Assistant

Enclosure

RECEIVED

## AFFIDAVIT of PUBLICATION

FEB 02 2015

COPY OF NOTICE

State of Idaho  
County of BlaineDEPT OF WATER RESOURCES  
SOUTHERN REGION

Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 21 day of Jan., 20 15, and the date of the last publication was on the 28 day of Jan, 20 15

Subscribed and sworn to before me this 28 day of

Jan, 20 15.



Connie N. Johnson  
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO  
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS  
P.O. Box 1013  
Ketchum, Idaho 83340  
COST OF PUBLICATION

Number of Picas per Line 11.5  
Number of Lines in Notice 45  
Number of Insertions 2

Lines tabular at \_\_\_\_\_ 9.0 cents/pica  
45 Lines straight at 41.40 8.0 cents/pica  
45 Subsequent lines at 36.23 7.0 cents/pica  
TOTAL COST \$ 77.63

✓ OK DM  
2/11/2015

Legal Notice  
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR  
BILL TO

NOTICE OF PROPOSED CHANGE  
OF WATER RIGHT  
TRANSFER NO. 79710

EDWARD & KAREN GILHULY TRUST, 376 MOUNTAIN HOME CT, WOODSIDE, CA 94062; has filed Application No. 79710 for changes to the following water rights within BLAINE County(s): Right No(s). 37-2165B; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes changing the authorized point of diversion (POD) for an Adams Gulch Creek water right, 37-2165B (0.150 cfs) to a new POD located approximately 0.16 miles downstream. The proposed POD is located approximately 1.6 miles north and 1.0 miles west of the intersection of Hwy 75 and Sun Valley Rd in Ketchum.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before February 9, 2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH  
IDAHO MOUNTAIN EXPRESS  
Jan. 21 & 28, 2015

State of Idaho  
Department of Water Resources  
Transfer of Water Right(s)  
**RECOMMENDATION FORM**

Via E-mail  
**RECEIVED**

**JAN 16 2015**

DEPT OF WATER RESOURCES  
SOUTHERN REGION

**Transfer Application No.:** 79710

**Water Right No(s):** 37-2165B

**Transfer Applicant's Name:** EDWARD & KAREN GILHULY TRUST  
376 MOUNTAIN HOME CT  
WOODSIDE, CA 94062

**Watermaster's Recommendation:**

- a) X 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 16<sup>th</sup> day of January, 2015

**Water District No. 37**

Kevin Lakey

Watermaster's Signature

Kevin Lakey

Printed Name