

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOV 20 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split

1. APPLICANT(S) Roger A. Browning Trust and Katherine A. Browning Phone (310) 278-5100
2. MAILING ADDRESS 360 N. Bedford Dr., Ste. 204 City Beverly Hills
State CA Zip 90210-5157 Email RAB@gbsjlaw.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 71-10853

- ☐ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is .3 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
		SE	SE	SW	8	10N	13E	Custer	Goat Creek	GC6

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Applicant currently diverts water at this added diversion, GC6, pursuant to water right nos. 71-4055B and 71-10854 and intends to add this water right.

- b. Who owns the property at the point(s) of diversion? Richard H. Kurth

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Applicant currently has rights to divert water right nos. 71-4055B and 71-10854 at this point of diversion.

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

ROGER A. BROWNING TRUST
ROGER A. BROWNING TRUSTEE
Print name and title if applicable

10/30/14
Date


Signature of applicant or authorized agent

KATHERINE A. BROWNING TRUST
KATHERINE A. BROWNING TRUSTEE
Print name and title if applicable

11/1/14
Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by DM Date 11-20-2014

Fee paid \$500- Date 11-20-2014 Received by DM Receipt # 5034407

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

[Close]

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

9/2/2014

WATER RIGHT NO. 71-10853

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KATHERINE A BROWNING 360 N BEDFORD DR STE 204 BEVERLY HILLS, CA 90210-5157 (310)278-5100
Current Owner	ROGER A BROWNING TRUST ROGER A BROWNING 360 N BEDFORD DR STE 204 BEVERLY HILLS, CA 90210-5157 (310)278-5100

Priority Date: 05/15/1921

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GOAT CREEK	VALLEY CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/31	0.3 CFS	
Total Diversion			0.3 CFS	

Location of Point(s) of Diversion:

GOAT CREEK	NWNENW	Sec. 17	Township 10N	Range 13E	CUSTER County
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IRRIGATION Use:
Acre Limit: 8

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10N	13E	8		SWSE	13									

Total Acres: 13

Conditions of Approval:

1.		THIS RIGHT IS LIMITED TO THE IRRIGATION OF 8 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 71-10854 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 13 ACRES IN A SINGLE IRRIGATION SEASON.
2.	C13	THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 71: WATER RIGHT NO. SOURCE NONE NONE THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL WATER RIGHTS WITHIN BASIN 71 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
3.	C18	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.
4.		RIGHT NOS. 71-00006, 71-00007, 71-00016, 71-00019A, 71-00019B, 71-00020A, 71-00020B, 71-00021A, 71-00021B, 71-04022, 71-04053, 71-10190, 71-10644, 71-10853 ARE DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Licensed Date:

Decreed Date: 03/16/1999

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number: 71
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 13
Combined Volume Limit:
Combined Rate Limit:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

[Close]



Property Lines (Owner Name Shown)

Diverion Location

Ditch

Stream

HydroPower Run

Pipeline

Abandoned Ditch

Road

Water Right Places of Use

Campilio GW - 71-10643

Stewart GW - 71-7032

Freeman GW - 71-10156

Schneider - 71-7063, 71-10110B

Parks - 71-10144

Joslyn GC - 71-7084

Piva - 71-6, 71-7, 71-10190

Perin - 71-19B, 71-20B, 71-21B, 71-4053

Furey 71-16, 71-19A, 71-20A, 71-21A

Joslyn GW - 71-10072

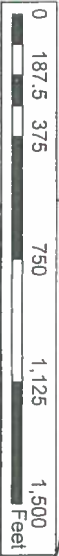
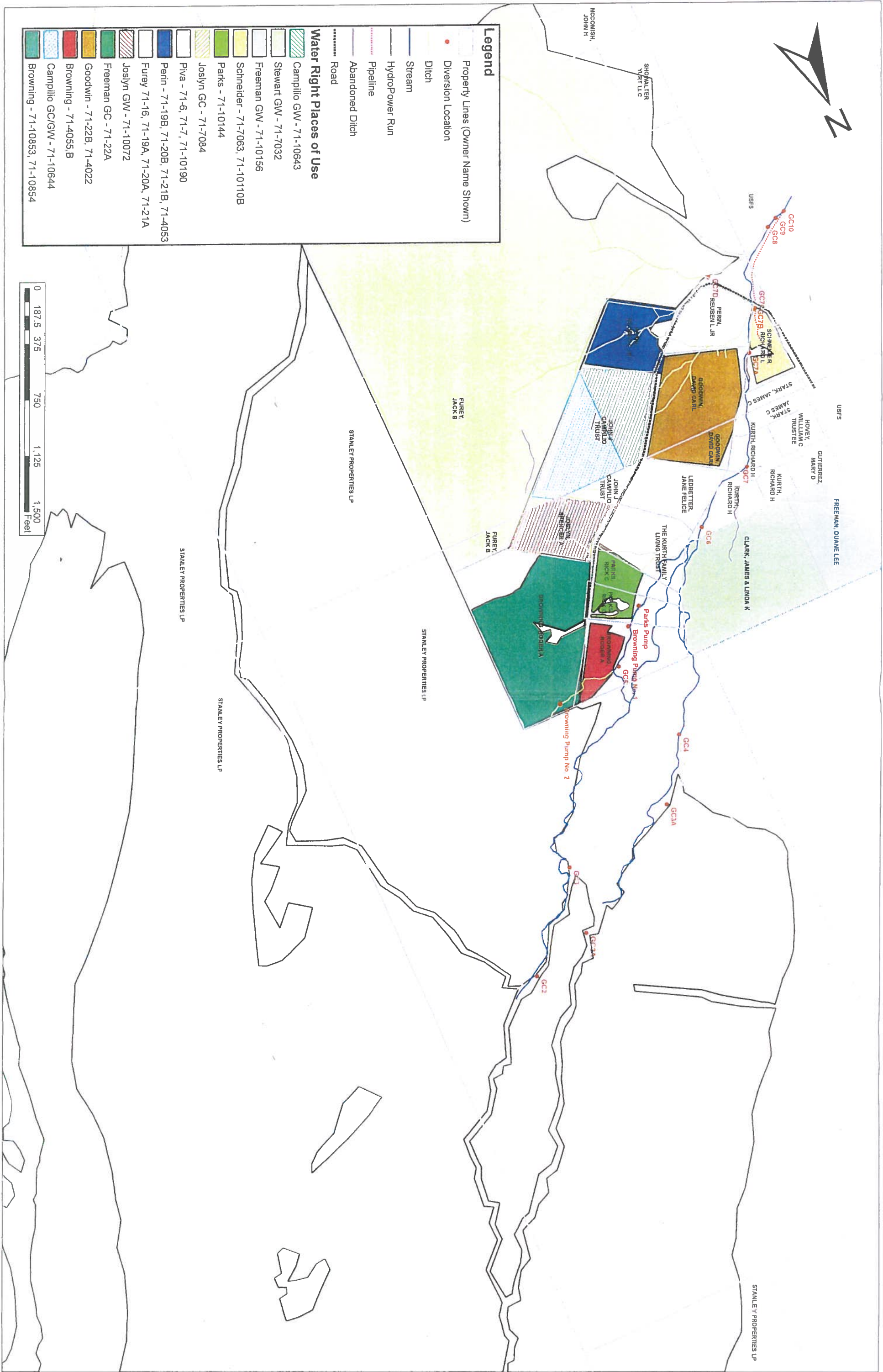
Freeman GC - 71-22A

Goodwin - 71-22B, 71-4022

Browning - 71-4055, B

Campilio GC/GW - 71-10644

Browning - 71-10853, 71-10854





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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 12, 2014

ROGER A BROWNING TRUST
KATHERINE A BROWNING
360 N BEDFORD DR STE 204
BEVERLY HILLS, CA 90210-5157

RE: Transfer No. 79678
Water Right No(s). 71-10853

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **CHALLIS MESSENGER** on **12/18/2014 and 12/25/2014**. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**January 5, 2015**).

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline
Administrative Assistant

cc:

SAWTOOTH LAW OFFICES PLLC
BRYCE FARRIS
PO BOX 7985
BOISE, ID 83707

Maline, Denise

From: Maline, Denise
Sent: Friday, December 12, 2014 11:00 AM
To: Miller, Nick
Subject: Comment Letter for transfer 79678
Attachments: Comment Letter to WM170.pdf; Transfer 79678.pdf

Hi Nick,

Attached please find a cover letter & a copy of application for transfer #79678. Please review the information and comment as necessary within 21 days. Also, the rest of the related documents for this file will be scanned later today as well.

Please feel free to contact our office if you have any questions.

Thank you in advance,

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 12, 2014

NICK MILLER
WATER DISTRICT #170
322 E FRONT ST
BOISE, ID 83720

Via e-mail

RE: Transfer No. 79678
Water Right No(s). 71-10853

Dear Mr. Miller:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 12, 2014

JAN SKRUKRUD
WATER DISTRICT #71
PO BOX 203
STANLEY, ID 83278

RE: Transfer No. 79678
Water Right No(s): 71-10853

Dear Ms. Skrukrud:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 12, 2014

IDAHO DEPT OF FISH & GAME
99 HWY 93 N
SALMON, ID 83467

RE: Transfer No. 79678
Water Right No(s). 71-10853

Dear Fish & Game:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application, or you may visit our website at www.idwr.idaho.gov.

Sincerely,

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

Denise Maline
Southern Region

Enclosure(s)

cc: Tom Bassista, IDFG Idaho Falls

Maline, Denise

From: Maline, Denise
Sent: Thursday, December 11, 2014 2:54 PM
To: Challis Messenger
Subject: LEGAL NOTICE
Attachments: Challis Messenger Cover Letter.docx; Challis Messenger Ad.doc

Attached please find (1) legal notice being submitted for publication on December 18th & 25th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 11, 2014

LEGAL NOTICE DEPARTMENT
CHALLIS MESSENGER
PO BOX 405
CHALLIS, ID 83226

RE: Transfer No. 79678
Water Right No(s): 71-10853

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before January 5, 2015. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79678**

ROGER A BROWNING TRUST and KATHERINE A BROWNING, 360 N BEDFORD DR STE 204, BEVERLY HILLS, CA 90210-5157; has filed Application No. 79678 for changes to the following water rights within CUSTER County(s): Right No(s). 71-10853; to see a full description of these rights and the proposed transfer, please see 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 proposes to change the current point of diversion for a surface water right from Goat Creek located approximately 2.0 miles west and 1.0 miles south of the intersection of Hwy 75 and 21 in Stanley to a existing point of diversion on Goat Creek located approximately 1.8 miles west and 0.8 miles south of the intersection of Hwy 75 and 21 in Stanley. The proposed change will allow for the diversion of 0.3 cfs for the irrigation of 13.0 acres.

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 January 5, 2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on December 18th & 25th, 2014

MEMORANDUM

Date: December 11, 2014
To: Transfer 79678 File
From: Benny Walker
Re: Evaluation of Sufficiency of Information Submitted

Application proposes to change the current point of diversion for a surface water right from Goat Creek located approximately 2.0 miles west and 1.0 miles south of the intersection of Hwy 75 and 21 in Stanley to a existing point of diversion on Goat Creek located approximately 1.8 miles west and 0.8 miles south of the intersection of Hwy 75 and 21 in Stanley. The proposed change will allow for the diversion of 0.3 cfs for the irrigation of 13.0 acres. The proposed point of diversion is owned by a neighbor and shared by the applicant who currently diverts two water rights at the proposed point of diversion. The following water rights were added as associated water rights to update their conditions: 71-6, 71-7, 71-16, 71-4022, 71-4053, 71-19A, 71-20A, 71-21A, 71-19B, 71-20B, 71-21B, 71-7084, and 71-10190.

The point of diversion is located within Water District 170 and 71 therefore watermaster comments will be requested.

- **Authority to File:**
The applicant owns the water right involved with the transfer according to department records.
- **Water Right Validity:**
The right involved with the transfer was decreed in the SRBA. Aerial photography indicates use of the right in recent years. Therefore forfeiture of the right involved with the transfer does not appear to be an issue.
- **Injury to Other Water Rights:**
None anticipated. The proposed amount of 0.3 cfs to be moved is minimal compared to the amount of water diverted from Goat Creek for other water rights.
- **Enlargement of Use:**
None anticipated. There is no change to the place of use
- **Local Public Interest:**
No negative impact anticipated. Application will be subject to public notice and protest
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on Economy of the Local Area:**
None anticipated.
- **Effect of the Agricultural Base of the Local Area:**
None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

Boise Office

Golden Eagle Building
1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Tel. (208) 629-7447
Fax (208) 629-7559

Challis Office

1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488
Fax (208) 879-4248

Twin Falls Office

161 Fifth Avenue South
P.O. Box 1295
Twin Falls, Idaho 83303
Tel. (208) 969-9585



RECEIVED

NOV 20 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

SAWTOOTH LAW
OFFICES, PLLC

November 19, 2014

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Melodie Baker, legal assistant
mel@sawtoothlaw.com

Department of Water Resources
Southern Region
650 Addison Ave W, Ste. 500
Twin Falls, ID 83301-5858

Re: Application for Transfer of Water Right - Browning water right no. 71-10853

Dear Sir or Madam:

Enclosed please find the original and one copy of the Application for Transfer of Water Right for Roger A. Browning Trust and Katherine A. Browning.

Also enclosed is a check in the amount of \$500.00 for the appropriate fee.

Once issued, please return the copy to me in the enclosed envelope for evidence of receipt.

Thank you for your assistance.

Very truly yours,

Katie R. Kelly
Secretary to S. Bryce Farris

Enclosures

✓
DN
11-20-14