

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79104

This is to certify that: RICHARD D PAYNE
PO BOX 113
CAREY, ID 83320

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
37-527	WR/DECREED	4/1/1882	2.180 cfs	N/A	N/A	222.0	LITTLE WOOD RIVER
37-528	WR/DECREED	6/10/1883	0.800 cfs	N/A	N/A	222.0	LITTLE WOOD RIVER

Purpose of Transfer (Changes Proposed)

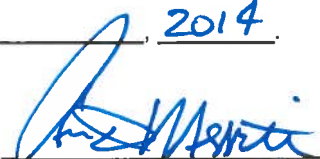
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
37-527	NO	NO	YES	YES	NO	NO
37-528	NO	NO	YES	YES	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
37-527	37-527	2.180 cfs	N/A	N/A	222.0	N/A	N/A	N/A	N/A	N/A
37-528	37-528	0.800 cfs	N/A	N/A	222.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.980 cfs	N/A	N/A	222.0		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 14th day of July, 2014.


Southern Region Manager

SUPPORT DATA

IN FILE # 37-527

Transfer No. 79104

WATER RIGHT NO. 37-527

As Modified by Transfer No. 79104

In accordance with the approval of Transfer No. 79104, Water Right No. 37-527 is now described as follows:

Right Holder: RICHARD D PAYNE
PO BOX 113
CAREY, ID 83320

Priority Date: 4/1/1882

Source: LITTLE WOOD RIVER **Tributary:** MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/15	to 10/31	2.180 cfs 2.180 cfs

LOCATION OF POINT(S) OF DIVERSION

LITTLE WOOD RIVER	NWSWSE	Sec 30 Twp 01N Rge 21E	BLAINE County	
LITTLE WOOD RIVER	NESW	Sec 20 Twp 02S Rge 21E	BLAINE County	(I)
LITTLE WOOD RIVER	SESW	Sec 20 Twp 02S Rge 21E	BLAINE County	(R)

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	
02S	21E	28					23	33	27	4.7									87.7
02S	21E	29	17.0			15.0	34.0								21.0	38.0	9.3		134.3

POU Total Acres: 222.0

CONDITIONS OF APPROVAL

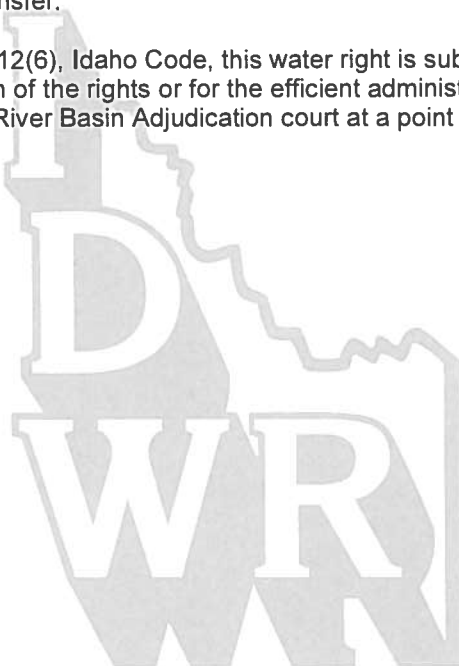
1. Rights 37-527 and 37-528 when combined shall not exceed the irrigation of 222 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water Districts No.37 and 37N.
3. 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).
4. 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.
5. Water is delivered through West Canal.
6. Use of this right is combined with water from Little Wood River Irrigation Dist.

Transfer No. 79104

WATER RIGHT NO. 37-527
As Modified by Transfer No. 79104

CONDITIONS OF APPROVAL

7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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. 37-528

As Modified by Transfer No. 79104

In accordance with the approval of Transfer No. 79104, Water Right No. 37-528 is now described as follows:

Right Holder: RICHARD D PAYNE
PO BOX 113
CAREY, ID 83320

Priority Date: 6/10/1883

Source: LITTLE WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE
IRRIGATION

From
04/15

To
to 10/31

Diversion Rate
0.800 cfs
0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

LITTLE WOOD RIVER	NWSWSE	Sec 30 Twp 01N Rge 21E	BLAINE County	
LITTLE WOOD RIVER	NESW	Sec 20 Twp 02S Rge 21E	BLAINE County	(I)
LITTLE WOOD RIVER	SESW	Sec 20 Twp 02S Rge 21E	BLAINE County	(R)

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	
02S	21E	28					23.0	33.0	27.0	4.7									87.7
02S	21E	29	17.0		15.0	34.0									21.0	38.0	9.3		134.3

POU Total Acres: 222.0

CONDITIONS OF APPROVAL

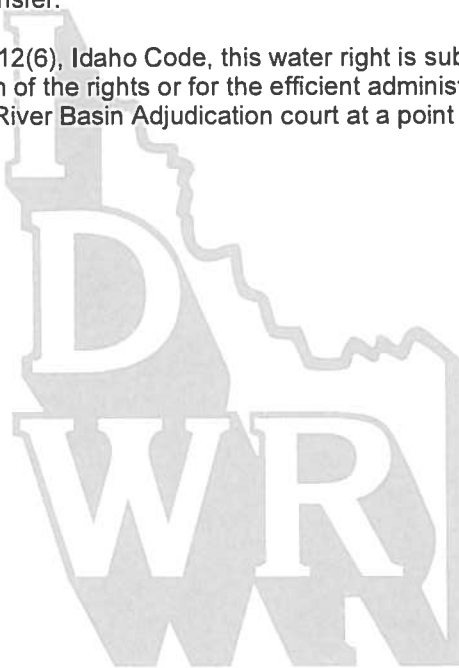
1. Rights 37-527 and 37-528 when combined shall not exceed the irrigation of 222 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water Districts No.37 and 37N.
3. 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).
4. 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.
5. Water is delivered through West Canal.
6. Use of this right is combined with water from Little Wood River Irrigation Dist.

Transfer No. 79104

WATER RIGHT NO. 37-528
As Modified by Transfer No. 79104

CONDITIONS OF APPROVAL

7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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.

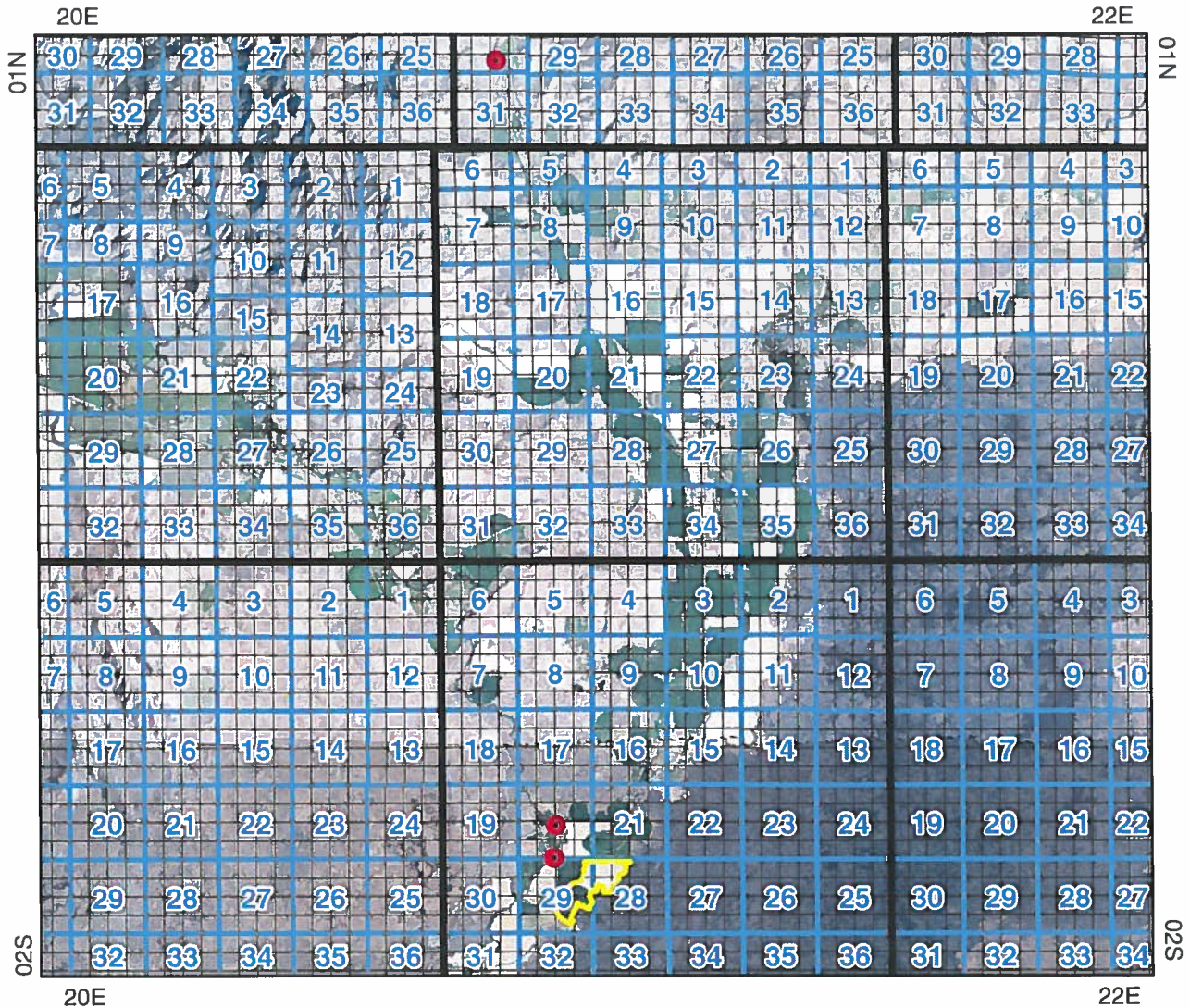


State of Idaho
Department of Water Resources

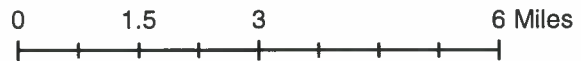
Attachment To Transfer No. 79104

Rights: 37-527 and 37-528

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
- Quarter Quarters





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

July 14, 2014

RICHARD D PAYNE
PO BOX 113
CAREY ID 83320

Re: Transfer No: 79104
Water Right No(s): 37-527, 37-528

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, looped initial "A" and a cursive "Merritt".

Allen Merritt
Southern Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

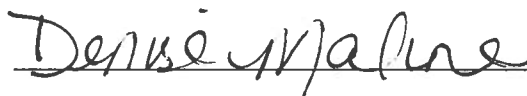
Re: Transfer No.: 79104

Water Right No(s): 37-527, 37-528

RICHARD D PAYNE

PO BOX 113

CAREY ID 83320

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 14, 2014

ROBERT SIMPSON WATERMASTER
WATER DISTRICT # 37-N
PO BOX 355
CAREY, ID 83320

Re: **APPROVED** Transfer No. 79104 (Richard Payne)

Dear Mr. Simpson:

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 14, 2014

KEVIN LAKEY WATERMASTER
WATER DISTRICT # 37
107 W 1st
SHOSHONE, ID 83352

Re: **APPROVED** Transfer No. 79104 (Richard Payne)

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

MEMORANDUM

Date: July 11, 2014
To: Transfer file 79104, Payne
From: Jim Bitzenburg
Re: Possible issues of enlargement regarding this transfer

Allen Merritt, Southern Regional manager, upon reviewing this transfer, brought to my attention a possibility that there could be issues of enlargement involved with this transfer. A portion of the area irrigated by the water rights involved is also irrigated by Little Wood River Irrigation District shares owned by Mr. Payne. The acres of the water right POU outside of the irrigation district service area decreased as a result of the transfer, so I believe that enlargement has not occurred (See attached map). Approximately 87.9 acres were irrigated outside of the service area before the transfer, and approximately 68.4 acres were irrigated after.

RECEIVED

JUL 02 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
Department of Water Resources
Transfer of water right (s)

RECOMMENDATION OF WATERMASTER

Application No. 79104
Water Right No.(s) 37-526

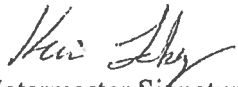
Applicant's Name:
Watermaster's Recommendation:

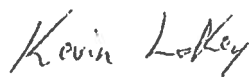
- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- c) ☐ I oppose approval of this application for the following reasons:

Additional Comment:

Dated 7/2/14

Water Districts 37


Watermaster Signature


Printed Name

RECEIVED

AFFIDAVIT of PUBLICATION MAY 30 2014

State of Idaho
County of Blaine

DEPT. OF WATER RESOURCES
SOUTHERN REGION

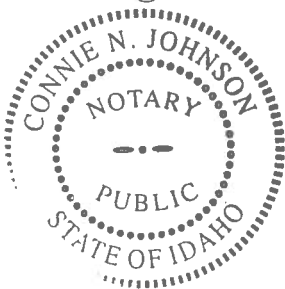
Ram Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight 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 May, 20 14, and the date of the last publication was on the 28 day of May, 20 14

Subscribed and sworn to before me this 28 day of May, 20 14.

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 54
Number of Insertions 2

54 Lines tabular at 49.68 9.0 cents/pica
54 Lines straight at 43.47 8.0 cents/pica
54 Subsequent lines at 93.15 7.0 cents/pica
TOTAL COST \$93.15

COPY OF NOTICE

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
RUE TO

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 79104

RICHARD D PAYNE, PO BOX 113, CAREY, ID 83320; has filed Application No. 79104 for changes to the following water rights within BLAINE County(s): Right No(s). 37-527, 37-528. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a point of injection and a point of diversion for two Little Wood River rights totaling 2.98 cfs used to irrigate 222 acres on a farm located approximately 5.0 to 5.8 miles south and 1.0 to 2.0 miles west of Carey. The proposed change will allow for the two Little Wood River rights to be diverted from the Little Wood River at the current point of diversion located approximately 5.75 miles north and 2.75 miles west of Carey, injected into Silver Creek at a location approximately 4.5 miles south and 2.1 miles west of Carey, and diverted from Silver Creek at a location approximately 5.0 miles south and 2.15 miles west of Carey. In addition, the transfer will modify the place of use to reflect changes in irrigation practices.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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 June 9, 2014. The protestant must also send a copy of the protest to the applicant.
Gary Spackman, Director

PUBLISH:
IDAHO MOUNTAIN EXPRESS
May 21 & 28, 2014

✓ OK
DM
6/4/2014

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

RECEIVED
MAY 22 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 79104

Water Right No(s): 37-527, 37-528

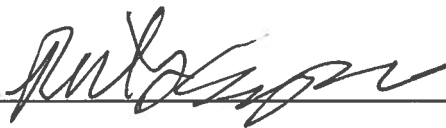
Transfer Applicant's Name: RICHARD D PAYNE
PO BOX 113
CAREY, ID 83320

Watermaster's Recommendation:

- a) ✓ 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 20th day of May, 2014

Water District No. 37-N



Watermaster's Signature

Robert L. Simpson

Printed Name