

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

EXCHANGE OF WATER RIGHT
EXCHANGE NO. 79361

This is to certify that: RICHARD W ANDERSON
9689 GURDON DR
BOISE, ID 83704

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 42-240, 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>
61-2152	WR/DECREED	3/6/1965	1.360 cfs	272.0 af	N/A	68.0	LITTLE CANYON CREEK

Purpose of Exchange (Changes Proposed)

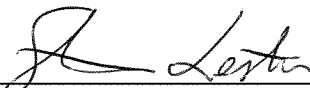
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
61-2152	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Exchange Rate</u>	<u>Exchange 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>
61-2152	61-2152	1.360 cfs	272.0 af	N/A	68.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.360 cfs	272.0 af	N/A	68.0		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 19th day of June, 2014.



 Western Regional Manager

FOR

WATER RIGHT NO. 61-2152
As Modified by Exchange No. 79361

In accordance with the approval of Exchange No. 79361, Water Right No. 61-2152 is now described as follows:

Right Holder: RICHARD W ANDERSON
9689 GURDON DR
BOISE, ID 83704

Priority Date: 3/6/1965

Source: SNAKE RIVER
Source: LITTLE CANYON CREEK

Tributary: COLUMBIA RIVER
Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	1.360 cfs 1.360 cfs	272.0 af 272.0 af

LOCATION OF POINT(S) OF DIVERSION

LITTLE CANYON CREEK	SENW	Sec 36 Twp 05S Rge 09E ELMORE County
SNAKE RIVER	L7 (NESE)	Sec 35 Twp 05S Rge 09E ELMORE County
(Point of Exchange)		

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	
05S	09E	36			15.0	15.0			15.0	23.0									68.0

POU Total Acres: 68.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this exchange within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this exchange is cause for the Director to rescind approval of the transfer.
3. 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.
4. This right does not grant any right-of-way or easement across the land of another.

Exchange No. 79361

WATER RIGHT NO. 61-2152
As Modified by Exchange No. 79361

CONDITIONS OF APPROVAL

5. Exchange 79361 authorizes diversion of water under Right 61-2152 from the Snake River limited to those times water is available for diversion under this right and priority from Little Canyon Creek at the original point of diversion located within SENW, S36, T5S, R9E. Availability of water from Little Canyon Creek shall be determined based on the lesser of the flow in Little Canyon Creek at the original point of diversion or at the mouth of Little Canyon Creek where it discharges into the Snake River.
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. Use of water under this right will be regulated cooperatively by watermasters with responsibility for the distribution of water among appropriators within their water districts. At the time of this approval, this water right is described within State Water District Nos. 02, Snake River; and 61D, Little Canyon Creek.
8. Prior to diversion of water under this approval, a lockable device subject to approval of the Department shall be installed and maintained on the Snake River diverting works in a manner providing the watermaster suitable control of that diversion.
9. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow in Little Canyon Creek at the original point of diversion, at the mouth of Little Canyon Creek, and at the exchange point of diversion from the Snake River.
10. Exchange 79361 authorizes permanent changes to Right 61-2152.



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

June 20, 2014

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RICHARD W ANDERSON
9689 GURDON DR
BOISE ID 83704

Re: Exchange No. 79361
Water Right No. 61-2152

Exchange Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Exchange of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Exchange 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.

This preliminary order approving Exchange No. 79361 modifies deadlines in the January 29, 2014, *Controllable Diversion Works and Measurement Device Order*. Those deadlines are hereby advanced to require installation of Little Canyon Creek and Snake River measuring devices and a Snake River lockable device prior to diversion of water under the approved Exchange.

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,

A handwritten signature in black ink that reads "Rachel Sommer". The script is cursive and fluid, with the first name "Rachel" and last name "Sommer" clearly legible.

Rachel Sommer
Administrative Assistant

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No. 79361
Water Right No. 61-2152**

**RICHARD W ANDERSON
9689 GURDON DR
BOISE ID 83704**

**CORBIN KNOWELS
WATER MASTER
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098**

**RICH WOOTEN
WATER MASTER
2286 S PRUETT RD
KING HILL ID 83633**

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

**Rachel Sommer
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)

A preliminary order of the Department of Water Resources ("Department") is 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 brief 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 37.01.01.302 and 37.01.01.303 (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

TO: Exchange No. 79361
FROM: Kay Walker 
DATE: June 19, 2014
RE: Evaluation of Application

The exchange proposes moving the point of diversion from Little Canyon Creek to the Snake River.

The site is approximately 1 mile northwest of Three Island Crossing State Park, 2 miles southwest of Glenns Ferry and 0.7 miles north of the Snake River.

Summary of Information Submitted

Authority to File:

The applicant has provided "Letters of Full Guardianship and Full Conservatorship" in regard to this property. The applicant is the son of the water right holder.

Water Right Validity:

Right presumed to be valid because the amended partial decree was issued on April 16, 2014.

Injury to Other Water Rights:

There should be no injury to other water rights. This right is diverted and used at the end of Little Canyon Creek before it discharges into the Snake River, so as long as the exchange is conditioned that no more water can be diverted than what is available from the original source there should be no injury.

Enlargement of Use:

No enlargement should occur. The right is still limited to the same amount of water and the same number of acres as decreed.

Local Public Interest:

It is within the local public interest to allow water users to change their systems for better efficiency and use of the water.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Discussion

Watermaster comments were solicited from the watermasters of the Snake River and Little Canyon Creek. We did not get a response from either watermaster during the comment period. The proposed conditions were discussed with Snake River watermaster and he was in agreement with the proposal.

Data entry affected the correct record which is the amended partial decree issued in April of this year. The right had been decreed with errors and the errors were brought to attention to the Department and SRBA upon receipt of the Application for Exchange.

There are no overlapping rights at the point of diversion or place of use. There are two rights diverted between the original point of diversion on Little Canyon Creek and the proposed diversion from the Snake River. As long as the watermaster has the tools to measure the water, delivery by priority date should not be an issue.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Walker, Kay

From: Walker, Kay
Sent: Wednesday, May 28, 2014 11:07 AM
To: Mark Anderson (markanderson)
Cc: Walker, Kay
Subject: RE: Application for Exchange of Water Rt. 61-2152

Mr. Anderson:

The protest period for this application was over on May 27th. No protests were filed. I just got the file on my desk for final review. Will get my review done and then it will go to the regional manager for final review and action. Hopefully we will have a final document by the first of next week. I hope this information is helpful.

Kay Walker

Sr. Water Resource Agent

334-2190

From: Mark Anderson (markanderson) [mailto:markanderson@micron.com]
Sent: Wednesday, May 28, 2014 9:51 AM
To: Walker, Kay
Cc: 'GEORGIA ANDERSON'; Mark Anderson (markanderson); wildmemories@aol.com
Subject: RE: Application for Exchange of Water Rt. 61-2152

Hello Kay,

Checking in on the status of this application. The publication and protest period should be over or very close, not sure if it is 10 business days or calendar days after the last publication. Safe bet is business days and that will be up end of business tomorrow 5/29/2014. You explained the possible timeline in an earlier message and I understand I believe.

Looking forward to and update from you when one is available. Your help through this process has been awesome and much appreciated!

Best Regards,

Mark Anderson

From: Walker, Kay [mailto:Kay.Walker@idwr.idaho.gov]
Sent: Wednesday, April 30, 2014 1:53 PM
To: Mark Anderson (markanderson)
Cc: Walker, Kay
Subject: RE: Application for Exchange of Water Rt. 61-2152

Mr. Anderson:

Once the advertisement period is complete and no protests are filed, we can take action to finalize the exchange application. If the newspaper sends us the affidavit of publication in a timely manner, you could possibly receive a final document during the first week of June.

Sincerely,

KAY WALKER

Sr. Water Resource Agent

*prior
e-mails*

From: Mark Anderson (markanderson) [mailto:markanderson@micron.com]
Sent: Wednesday, April 30, 2014 1:47 PM
To: Walker, Kay

RECEIVED

MAY 19 2014

**PROPOSED EXCHANGE OF
WATER RIGHT**WATER RESOURCES
WESTERN REGION

Richard W. Anderson of 9689 Gurdon Dr., Boise, ID, 83704, filed an application for exchange of Water Right No. 61-2152 with a 1965 priority date from Little Canyon Creek totaling 1.36 cfs. The right is diverted and used for irrigation purposes from March 15 through November 15 located on the south side of Little Canyon Creek, approximately 1 mile northwest of Three Island Crossing State Park, 2 miles southwest of Glenns Ferry and 0.7 miles north of the Snake River.

The purpose of the exchange is to move the point of diversion. Water will be left in the creek to flow into the river, in exchange for being diverted from the river about 0.25 mile upstream from the confluence of those streams. This exchange will be permanent.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right(s) and the proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 5/27/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: May 7, 2014
Last Publication: May 14, 2014

OK
5/28/14
RS

AFFIDAVIT OF PUBLICATION

County of Elmore } ss.
State of Idaho

I, **Brenda M. Fincher**, do solemnly swear that I am the Publisher of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for _____ consecutive weeks, the first publication having been made on the _____ day of _____, 2014, and the last publication having been made on the _____ day of _____, 2014; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Brenda M. Fincher

Publisher

Subscribed and sworn to me this 14th day of May, 2014.

[Signature]

Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2017**.

