

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78671

This is to certify that: TMCO INC
PO BOX 1366
NAMPA, ID 83653

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>
63-11282	WR/LICENSE	4/16/1990	15.000 cfs	3379.5 af	N/A	751.0	GROUND WATER
63-7019	WR/DECREED	8/21/1967	4.800 cfs	1440.0 af	N/A	320.0	GROUND WATER
63-7956	WR/DECREED	4/1/1974	1.600 cfs	678.0 af	N/A	320.0	GROUND WATER

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>
63-11282	NO	YES	YES	YES	NO	NO
63-7019	NO	YES	YES	YES	NO	NO
63-7956	NO	YES	YES	YES	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>
63-11282	63-11282	15.000 cfs	3379.5 af	751.0	1479.0	N/A	N/A	N/A	N/A	N/A
63-7019	63-7019	4.800 cfs	1440.0 af	320.0	1479.0	N/A	N/A	N/A	N/A	N/A
63-7956	63-7956	1.600 cfs	678.0 af	320.0	1479.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		16.730 cfs	4819.5 af	1071.0	1479.0		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 21st day of April, 2014.


Western Regional Manager

SUPPORT DATA

IN FILE # 63-7019

Transfer No. 78671

WATER RIGHT NO. 63-11282
As Modified by Transfer No. 78671

In accordance with the approval of Transfer No. 78671, Water Right No. 63-11282 is now described as follows:

Right Holder: TMCO INC
 PO BOX 1366
 NAMPA, ID 83653

Priority Date: 4/17/1990

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	3/15	to 11/15	15.000 cfs	3379.5 af
			15.000 cfs	3379.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L2 (NWNE)	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENE	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENW	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 2	Twp 06N Rge 05W PAYETTE 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	
06N	05W	1	45.0	45.0	40.0	40.0	43.0	18.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0		40.0	591.0
			L 1	L 2			L 3	L 4											
06N	05W	2	39.0	44.0	40.0	40.0	35.0	45.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	643.0
06N	05W	2	1	2			3	4											
06N	05W	12					40.0	40.0											80.0
07N	05W	35															20.0	5.0	25.0
07N	05W	35																	
07N	05W	36											35.0	40.0			40.0	25.0	140.0
07N	05W	36																	

Right Acre Limit: 751.0
 POU Total Acres: 1479.0

CONDITIONS OF APPROVAL

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

Transfer No. 78671

WATER RIGHT NO. 63-11282
As Modified by Transfer No. 78671

CONDITIONS OF APPROVAL

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 is limited to the irrigation of 751 acres within the authorized place of use in a single irrigation season.
5. Rights 63-7019, 63-7956, and 63-11282 when combined shall not exceed a total diversion rate of 16.73 cfs.
6. The following rights are diverted through points of diversion described above: 63-7019, 63-7956, and 63-11282.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

WATER RIGHT NO. 63-7019**As Modified by Transfer No. 78671**

In accordance with the approval of Transfer No. 78671, Water Right No. 63-7019 is now described as follows:

Right Holder: TMCO INC
PO BOX 1366
NAMPA, ID 83653

Priority Date: 8/21/1967

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/15	4.800 cfs	1440.0 af
			4.800 cfs	1440.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L2 (NWNE)	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENE	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENE	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 2	Twp 06N Rge 05W PAYETTE 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	
06N	05W	1	45.0	45.0	40.0	40.0	43.0	18.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0		40.0	591.0
			L 1	L 2			L 3	L 4											
06N	05W	2	39.0	44.0	40.0	40.0	35.0	45.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	643.0
06N	05W	2	1	2			3	4											
06N	05W	12					40.0	40.0											80.0
07N	05W	35															20.0	5.0	25.0
07N	05W	35																	
07N	05W	36											35.0	40.0			40.0	25.0	140.0
07N	05W	36																	

Right Acre Limit: 320.0

POU Total Acres: 1479.0

CONDITIONS OF APPROVAL

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

Transfer No. 78671

WATER RIGHT NO. 63-7019
As Modified by Transfer No. 78671

CONDITIONS OF APPROVAL

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. The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
5. This right is limited to the irrigation of 320 acres within the authorized place of use in a single irrigation season.
6. Rights 63-7019 and 63-7956 when combined shall not exceed a total diversion rate of 6.4 cfs, a total annual maximum diversion volume of 1440 af at the field headgate, and the irrigation of 320 acres.
7. Rights 63-7019, 63-7956, and 63-11282 when combined shall not exceed a total diversion rate of 16.73 cfs.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
9. The following rights are diverted through points of diversion described above: 63-7019, 63-7956, and 63-11282.

WATER RIGHT NO. 63-7956**As Modified by Transfer No. 78671**

In accordance with the approval of Transfer No. 78671, Water Right No. 63-7956 is now described as follows:

Right Holder: TMCO INC
PO BOX 1366
NAMPA, ID 83653

Priority Date: 4/1/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.600 cfs	678.0 af
			1.600 cfs	678.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L2 (NWNE)	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SWSW	Sec 1	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENE	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	SENE	Sec 2	Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSW	Sec 2	Twp 06N Rge 05W PAYETTE 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	
06N	05W	1	45.0	45.0	40.0	40.0	43.0	18.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	591.0
			L 1	L 2			L 3	L 4											
06N	05W	2	39.0	44.0	40.0	40.0	35.0	45.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	643.0
06N	05W	2	1	2			3	4											
06N	05W	12					40.0	40.0											80.0
07N	05W	35															20.0	5.0	25.0
07N	05W	35																	
07N	05W	36											35.0	40.0			40.0	25.0	140.0
07N	05W	36																	

Right Acre Limit: 320.0

POU Total Acres: 1479.0

CONDITIONS OF APPROVAL

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

Transfer No. 78671

WATER RIGHT NO. 63-7956
As Modified by Transfer No. 78671

CONDITIONS OF APPROVAL

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. The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
5. Rights 63-7019 and 63-7956 when combined shall not exceed a total diversion rate of 6.4 cfs, a total annual maximum diversion volume of 1440 af at the field headgate, and the irrigation of 320 acres.
6. This right is limited to the irrigation of 320 acres within the authorized place of use in a single irrigation season.
7. Rights 63-7019, 63-7956, and 63-11282 when combined shall not exceed a total diversion rate of 16.73 cfs.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
9. The following rights are diverted through points of diversion described above: 63-7019, 63-7956, and 63-11282.



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

April 21, 2014

TMCO INC
PO BOX 1366
NAMPA ID 83653

Re: Transfer No. 78671
Water Right No's: 63-7019, 63-7956, 63-11282

Transfer Approval Notice

Dear Water Right Holders 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.

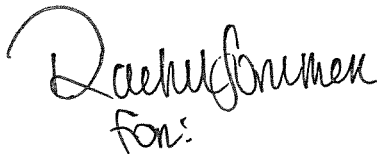
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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,

A handwritten signature in black ink that reads "Rachel Jonneman" with "For:" written below it.

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No. 78671

Water Right No's: 63-7019, 63-7956, 63-11282

**TMCO INC
PO BOX 1366
NAMPA ID 83653**

**ERO RESOURCES CORP
C/O NORM YOUNG
4001 E MAIN ST
EMMETT ID 83617**

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)

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.



MEMORANDUM

Date: April 7, 2014
To: File
From: Nick Van Dyke *NVD*
Re: Analysis of Transfer 78671 TMCO Inc

Narrative: This transfer proposes to change the place of use of rights 63-7019, 63-7956, and 63-11282 into a common 1,479 acre permissible place of use (ppu). Rights will be limited to a combined limit of 1,071 acres within the ppu. Two new wells also proposed to be drilled and connected to four existing wells for an interconnected system of six wells. No other changes proposed.

Authority to File: Tom Malson, President of TMCO Inc, signed the application. Norm Young of ERO Resources Corporation acted as representative for the transfer filing.

Water Right Validity: Rights 63-7019 and 63-7956 were decreed in 2009. Right 63-11282 was licensed in 1995. No evidence of forfeiture found.

Injury to Other Water Rights: None anticipated

Enlargement of Use: No enlargement concerns.

Local Public Interest: No issues identified. Application was advertised, no protests were received.

Beneficial Use/Conservation of Water Resources: No issues identified. Review of the application finds there is not clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

PROPOSED CHANGE OF WATER RIGHT

TMCO Inc. of P.O. Box 1366, Nampa, ID 83653 filed Application No. 78671 to transfer three water rights with 1967 to 1990 priority dates from ground water totaling 16.73 cfs. The purpose of the transfer is to combine four existing and two proposed wells into an interconnected system and place the three rights into a common 1,479 acre permissible place of use (PPU) with an authorized irrigated acre limit of 1,071 acres. The PPU is located roughly 4.5 miles east of Nyssa, OR.

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 2/3/14. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 1/15/2014 and 1/22/2014
Legal Number 81495 January 15, 22 2014

OK
2-19-14

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }

County of Payette }

John E Dillon

Of Payette, Payette County, Idaho, being

First duly sworn, deposes and says:

- 1) That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not party to the above entitled action.
- 2) That I am the representative of the Independent Enterprise, a weekly newspaper published in the County of Payette and State of Idaho; that the said newspaper is in general circulation in the said Count of Payette, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
- 3) That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:

January 15th, 22nd, 2014

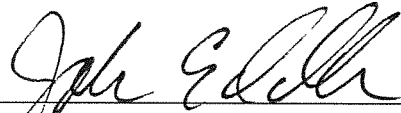
Legal # 81495

Proposed Change

Department of Water Resources

2735 Airport Way

Boise, Id. 83705



State of Idaho }
County of Payette }

On this 23rd day of January in the year 2014

Before me a Notary Public, personally appeared.

John E Dillon, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Notary Public for Idaho

Residing at Payette County

My Commission expires November 4, 2019

RECEIVED

JAN 24 2014

WATER RESOURCES
WESTERN REGION