

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79140

This is to certify that: DIANA L WHITING AND/OR
DOUGLAS C WALTON
PO BOX 1093
KETCHUM, ID 83340

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>
37-22675	WR/DECREED	5/1/1883	0.190 cfs	N/A	N/A	4.2	BIG WOOD RIVER

Purpose of Transfer (Changes Proposed)

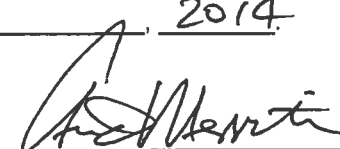
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-22675	NO	YES	YES	NO	NO	NO

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>
37-22675	37-22675	0.190 cfs	N/A	4.2	4.3	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.190 cfs	N/A	4.2	4.3		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 17th day of April, 2014.


Southern Region Manager

WATER RIGHT NO. 37-22675

As Modified by Transfer No. 79140

In accordance with the approval of Transfer No. 79140, Water Right No. 37-22675 is now described as follows:

Right Holder: DOUGLAS C WALTON Or
DIANA L WHITING
PO BOX 1093
KETCHUM, ID 83340

Priority Date: 5/1/1883

Source: GROUND WATER

Tributary: BIG WOOD RIVER

BENEFICIAL USE
IRRIGATION

From 04/15 **To** 10/31

Diversion Rate
0.190 cfs
0.190 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENESE Sec 5 Twp 02N Rge 18E BLAINE 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	
02N	18E	4										0.3							0.3
02N	18E	5													3.4			0.6	4.0

Right Acre Limit: 4.2

POU Total Acres: 4.3

CONDITIONS OF APPROVAL

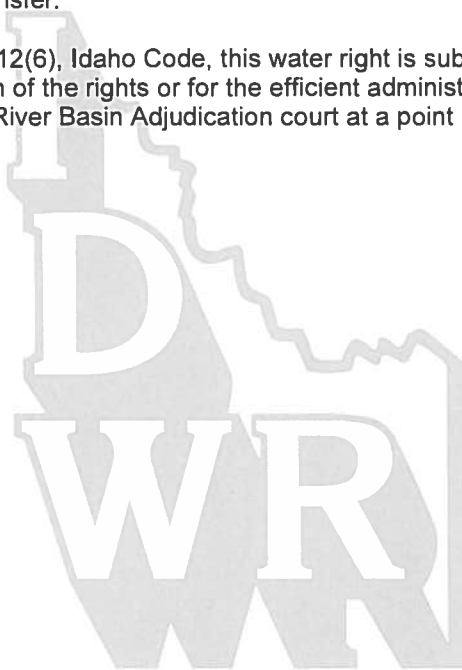
1. This right is limited to the irrigation of 4.2 acres within the authorized place of use in a single irrigation season.
2. Diversion of groundwater is limited to those times water is available for diversion under this right and priority from the Big Wood River.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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.
5. 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.

Transfer No. 79140

WATER RIGHT NO. 37-22675
As Modified by Transfer No. 79140

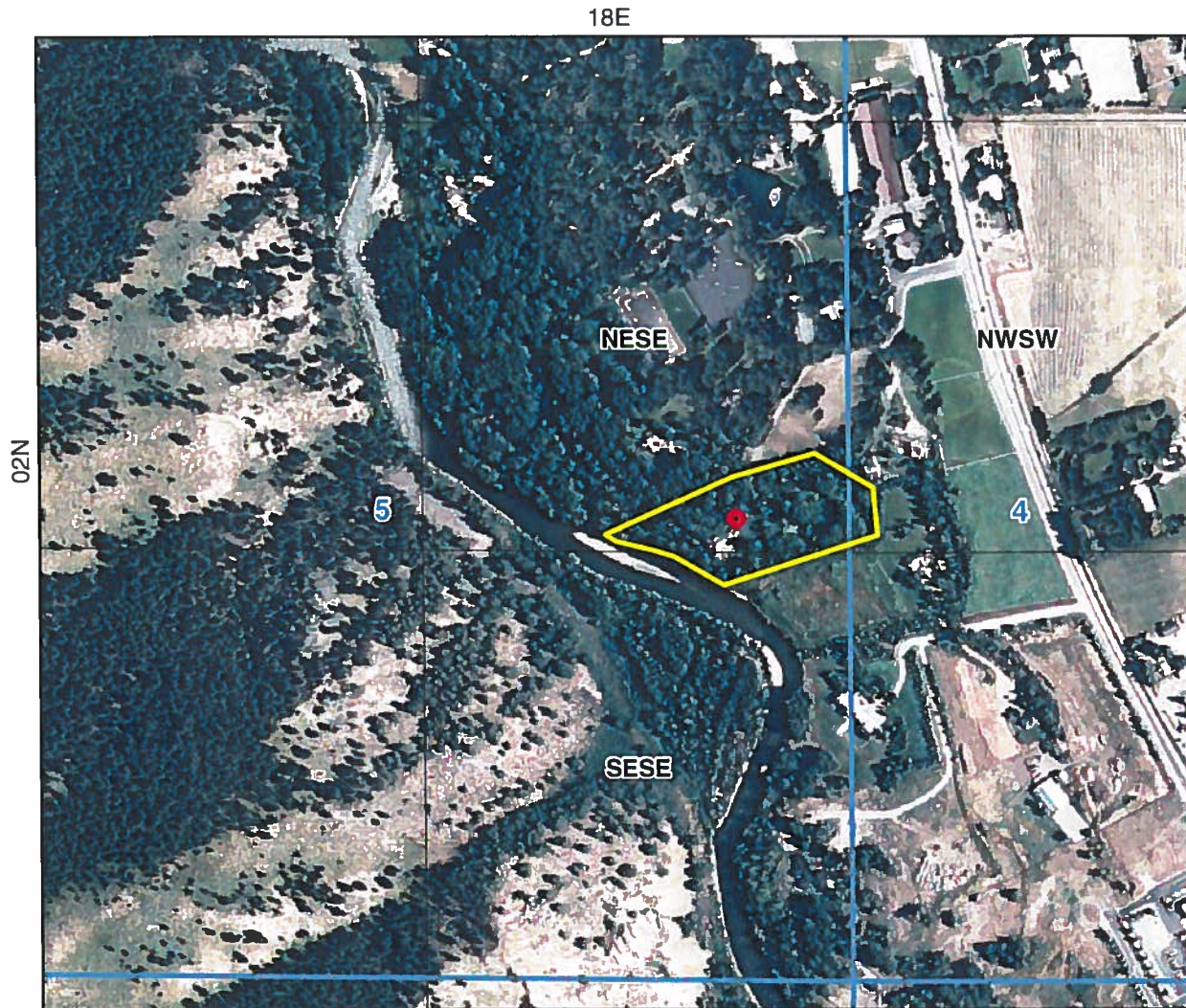
CONDITIONS OF APPROVAL

6. Property is also known as Lot 12, River Grove Subdivision.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 79140
Right: 37-22675

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

0 0.05 0.1 0.2 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 17, 2014

DOUGLAS C WALTON
DIANA L WHITING
PO BOX 1093
KETCHUM ID 83340

Re: Transfer No: 79140
Water Right No(s): 37-22675

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 Region Manager

Enclosure

cc:

BROCKWAY ENGINEERING PLLC
C/O CHARLES G BROCKWAY OR ZACH LATHAM
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

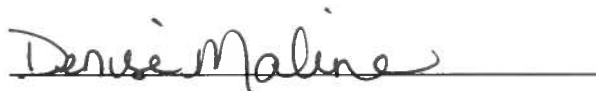
CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 79140
Water Right No(s): 37-22675**

**DOUGLAS C WALTON
DIANA L WHITING
PO BOX 1093
KETCHUM ID 83340**

**BROCKWAY ENGINEERING PLLC
C/O CHARLES G BROCKWAY OR ZACH LATHAM
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

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

April 17, 2014

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

Re: **APPROVED** Transfer No. 79140 (Douglas Walton & Diana Whiting)

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

MAR 28 2014

COPY OF NOTICE

AFFIDAVIT of PUBLICATION

State of Idaho
County of BlainePam MorrisDEPT OF WATER RESOURCES
SOUTHERN REGION

Pam Morris, being the first 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 19 day of

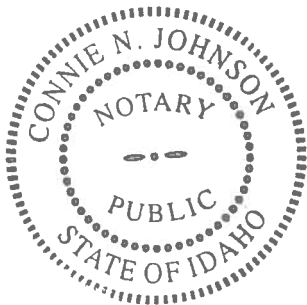
March, 20 14, and the date of the last publication was

on the 26 day of March, 20 14

Subscribed and sworn to before me this 26 day of

March, 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 89

Number of Insertions 2

Lines tabular at _____ 9.0 cents/pica
89 Lines straight at 81.88 8.0 cents/pica
89 Subsequent lines at 71.65 7.0 cents/pica
TOTAL COST 153.53

Legal Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

37-22870

TERRENCE DANIELS

259 YELLOW MOUNTAIN ROAD

GREENWOOD, VA 22943

Point of Diversion NWSWSW S3 T03N

R18E BLAINE County Source GROUND

WATER Tributary

Use: COOLING 01/01 to 12/31 0.11 CFS

Use: HEATING 01/01 to 12/31 0.11 CFS

Total Diversion: 0.11 CFS

Date Filed: 2/26/2014

Place Of Use: HEATING & COOLING

T03N R18E S3 SWSW

Application for Permit 37-22870, filed in the name of Terrence Daniels, seeks to appropriate 0.11 cfs of ground water for heating and cooling. Heating and cooling uses will be returned to the aquifer through an injection well. The proposed place of use and point of diversion are located approximately 3 miles east and 4.5 miles south of the City of Ketchum.

✓ OK DM
4/3/2014

✓

**NOTICE OF PROPOSED CHANGE OF
WATER RIGHT**

TRANSFER NO. 79140

DOUGLAS C WALTON and DIANA L WHITING, PO BOX 1093, KETCHUM, ID 83340; has filed Application No. 79140 for changes to the following water rights within BLAINE County(s): Right No(s) 37-22675. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) and place of use (POU) for Big Wood River right 37-22675, which is currently authorized to divert 0.19 CFS for 4.2 acres of irrigation on property located approximately 0.3 mi - 0.4 mi N & 0.5 - 0.7 mi. W of Hailey (Lot 12, River Grove Ranch Subdivision). Application proposes to change two PODs from the Big Wood River, located just upstream of the POU, to a well located approximately 250 ft from the Big Wood River, within the current authorized POU. Application also proposes to create a 4.3-acre permissible place of use (PPU) to include a small portion of ground adjacent to the current authorized POU. Right will continue to be limited to 4.2 acres within the proposed 4.3-acre PPU and continue to be under the control of the Big Wood River Water District (37).

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, 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 Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. 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 April 7, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH:
IDAHO MOUNTAIN EXPRESS
March 19 & 26, 2014

✓ OK DM 4/3/2014

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

RECEIVED

MAR 25 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 79140

Water Right No(s): 37-22675

Transfer Applicant's Name: DOUGLAS C WALTON
DIANA L WHITING
PO BOX 1093
KETCHUM, ID 83340

Watermaster's Recommendation:

- a) _____ I do not oppose approval of this application.
- b) X I do not oppose approval of this application if it is conditioned as follows:
*Delivery mechanism/plumbing for 37-22675 must be separated from
Domestic plumbing to allow curtailment in times of scarcity*
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 25th day of March, 2014

Water District No. 37

Kevin Lakey

Watermaster's Signature

Kevin Lakey

Printed Name