

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78999

This is to certify that: MARK T NEWCOMB
251 E 200 S
RUPERT, ID 83350

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>
45-2329A	WR/DECREED	9/30/1950	0.760 cfs	N/A	72.0	256.0	GROUND WATER
45-2370	WR/DECREED	2/16/1951	2.420 cfs	N/A	184.0	256.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

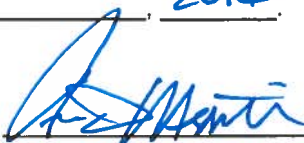
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
45-2329A	NO	NO	NO	YES	NO	NO
45-2370	NO	NO	NO	YES	NO	NO

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>
45-2329A	45-2329A	0.760 cfs	288.0 af	72.0	256.0	N/A	N/A	N/A	N/A	N/A
45-2370	45-2370	2.420 cfs	736.0 af	184.0	256.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.180 cfs	1024.0 af	256.0	256.0		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 20th day of March, 2014.


Southern Region Manager

SUPPORT DATA

IN FILE # 45-2329A

Transfer No. 78999

WATER RIGHT NO. 45-2329A

As Modified by Transfer No. 78999

In accordance with the approval of Transfer No. 78999, Water Right No. 45-2329A is now described as follows:

Right Holder: MARK T NEWCOMB
251 E 200 S
RUPERT, ID 83350

Priority Date: 9/30/1950

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.760 cfs 0.760 cfs	288.0 af 288.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNWSE	Sec 1	Twp 10S Rge 24E	CASSIA County
GROUND WATER	NWSESE	Sec 1	Twp 10S Rge 24E	CASSIA County
GROUND WATER	SWNWSE	Sec 6	Twp 10S Rge 25E	CASSIA 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	
10S	24E	1													40.0	40.0		40.0	120.0
10S	25E	6									40.0	32.0	32.0	32.0					136.0
											L 6	L 7							

Right Acre Limit: 72.0
POU Total Acres: 256.0

CONDITIONS OF APPROVAL

1. Rights 45-2329A, and 45-2370 when combined shall not exceed a total diversion rate of 3.18 cfs, a total annual maximum diversion volume of 1024 af at the field headgate, and the irrigation of 256 acres.
2. This right is limited to the irrigation of 72 acres within the authorized place of use in a single irrigation season.
3. The point of diversion located in the NWNWSE S1, T10S, R24E is limited to a maximum diversion rate of 3.0 cfs.
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. 140.

Transfer No. 78999

WATER RIGHT NO. 45-2329A
As Modified by Transfer No. 78999

CONDITIONS OF APPROVAL

5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. Prior to the diversion and use of water under Transfer approval 78999, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
7. 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.
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.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

WATER RIGHT NO. 45-2370**As Modified by Transfer No. 78999**

In accordance with the approval of Transfer No. 78999, Water Right No. 45-2370 is now described as follows:

Right Holder: MARK T NEWCOMB
251 E 200 S
RUPERT, ID 83350

Priority Date: 2/16/1951

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From 03/15 **To** 11/15

Diversion Rate
2.420 cfs
2.420 cfs

Diversion Volume
736.0 af
736.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNWSE Sec 1 Twp 10S Rge 24E CASSIA County
GROUND WATER NWSESE Sec 1 Twp 10S Rge 24E CASSIA County
GROUND WATER SWNWSE Sec 6 Twp 10S Rge 25E CASSIA 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	
10S	24E	1													40.0	40.0		40.0	120.0
10S	25E	6									40.0	32.0	32.0	32.0					136.0
											L 6	L 7							

Right Acre Limit: 184.0

POU Total Acres: 256.0

CONDITIONS OF APPROVAL

1. The point of diversion located in the NWNWSE S1, T10S, R24E is limited to a maximum diversion rate of 3.0 cfs.
2. This right is limited to the irrigation of 184 acres within the authorized place of use in a single irrigation season.
3. Rights 45-2329A and 45-2370 when combined shall not exceed a total diversion rate of 3.18 cfs, a total annual maximum diversion volume of 1024 af at the field headgate, and the irrigation of 256 acres.
4. 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.

WATER RIGHT NO. 45-2370

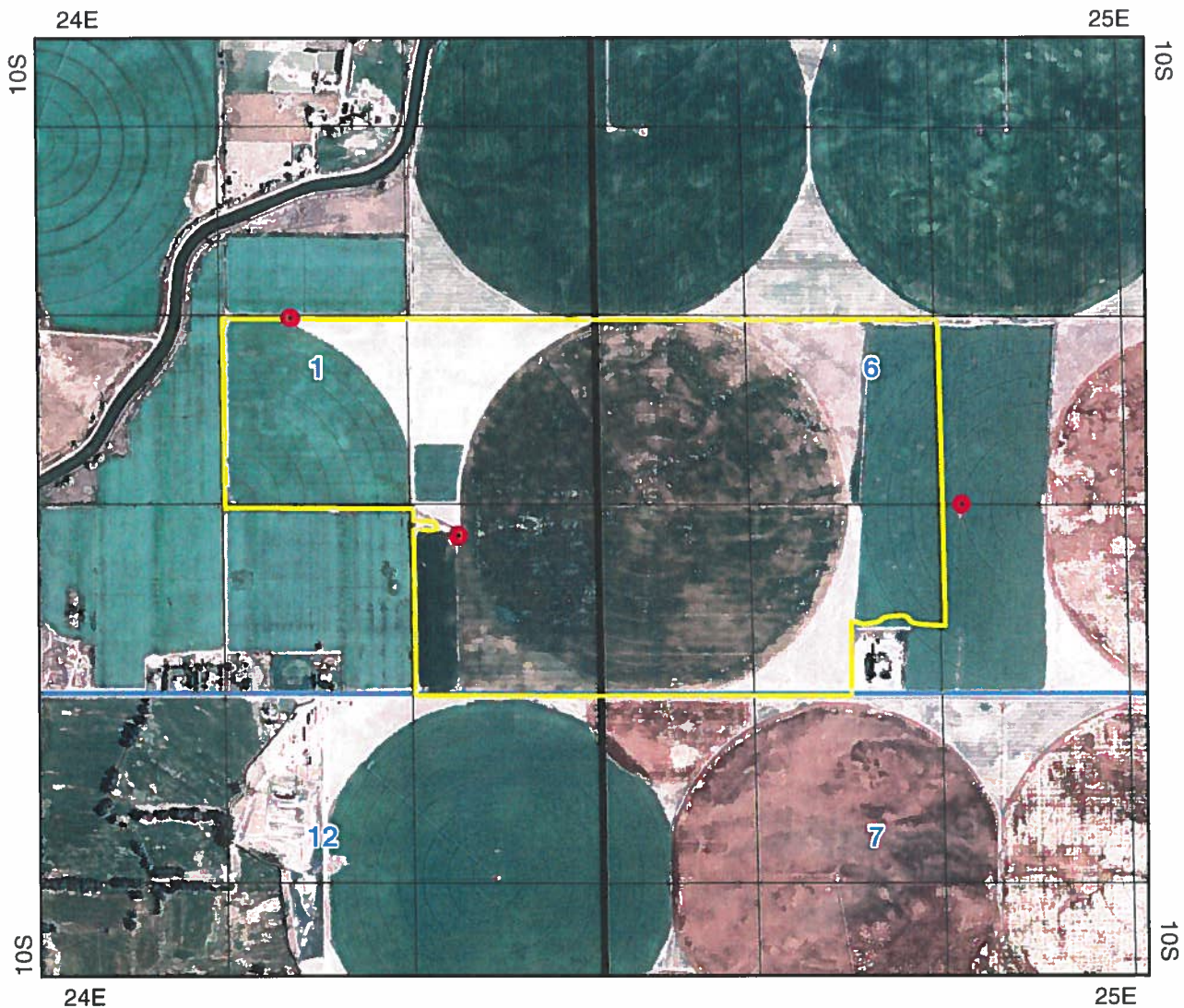
As Modified by Transfer No. 78999

CONDITIONS OF APPROVAL

5. 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. 140.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. Prior to the diversion and use of water under Transfer approval 78999, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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

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

A horizontal number line representing distance in miles. The line starts at 0 on the left and ends at 0.6 Miles on the right. There are major tick marks labeled 0, 0.15, 0.3, and 0.6 Miles. Between these major ticks, there are four smaller, unlabeled tick marks, dividing each 0.15-mile segment into five equal parts of 0.03 miles each.





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 25, 2014

BRIAN HIGGS WATERMASTER
WATER DISTRICT # 140
355 W 500 S
BURLEY, ID 83318

Re: **APPROVED Transfer No. 78999 (Mark T Newcomb)**

Dear Mr. Higgs:

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". The signature is written in dark ink and is positioned above the printed name and title.

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

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 20, 2014

MARK T NEWCOMB
251 E 200 S
RUPERT ID 83350

Re: Transfer No: 78999
Water Right No(s): 45-2329, 45-2370

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

CERTIFICATE OF SERVICE

I hereby certify that on March 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.: 78999
Water Right No(s): 45-2329, 45-2370

MARK T NEWCOMB
251 E 200 S
RUPERT ID 83350

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.

MEMORANDUM

Date: March 20, 2014

To: Transfer 78999

From: Allen Merritt

Re: PD in Sec 6

It is confirmed that only one well is shared between Bruce and Mark Newcomb in Sec 6. Imagery confirms that legal is SWNWSE and Bruce rights list that location. Mark rights listed NWSWSE but are being changed to same as Bruce. Note that the well is very close to line between SWNWSE and NWSWSE. At least all rights from this well will be on same point and described the same.

RECEIVED

FEB 28 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Affidavit of Publication

STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

I, Ruby Aufderheide, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated 20th day of February, 2014 and ending with the issue dated 27th day of February, 2014

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issued thereof Thursday is announced as the day on which said legal will be published.

Ruby Aufderheide
Ruby Aufderheide, Legal Clerk

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 27th day of February, 2014, before me,

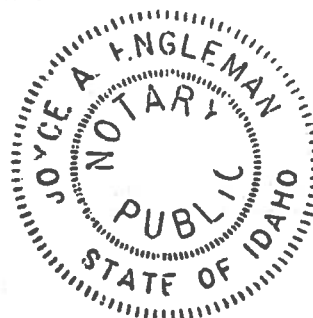
a Notary Public, personally appeared Ruby Aufderheide,
known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

(36-16976)
36-17002
78999

Joyce A. Engleman
Notary Public for Idaho
Residing at Twin Falls, Idaho. 6/28/19

My commission expires: _____

✓ OK AM 3/6/2014



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

✓
36-16976

AMERICAN FALLS ABERDEEN GROUND WATER DISTRICT
BINGHAM GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER DISTRICT
NORTH SNAKE GROUND WATER DISTRICT
MADISON GROUND WATER DISTRICT
BONNEVILLE JEFFERSON GROUND WATER DISTRICT
CLARK JEFFERSON GROUND WATER DISTRICT
C/O RANDALL C BUDGE
PO BOX 1391
POCATELLO, ID 83204

Point of Diversion SESWNW S32 T07S R14E GOODING County
Source SPRINGS Tributary BILLINGSLEY CREEK

Point of Diversion SWSWNW S32 T07S R14E GOODING County
Source BILLINGSLEY CREEK Tributary SNAKE RIVER

Point of Diversion SWSWNW S32 T07S R14E GOODING County
Source SPRINGS Tributary BILLINGSLEY CREEK

Point of Diversion SESWNW S32 T07S R14E GOODING County
Source BILLINGSLEY CREEK Tributary SNAKE RIVER

Use: FISH PROPAGATION 01/01 to 12/31 12 CFS

Use: MITIGATION FOR IRRIGATION 01/01 to 12/31 12 CFS

Total Diversion: 12 CFS

Date Filed: 4/3/2013

Place Of Use: FISH PROPAGATION & MITIGATION FOR IRRIGATION

T07S R14E S31 SWNE SENE

T07S R14E S32 SWNW

Application proposes appropriating 12.0 cfs of water from springs and Billingsley Creek for fish propagation and "mitigation for irrigation" use. The proposed points of diversion are located at the head of the Rangen fish facility located approximately 2.7 miles south and 2.4 miles east of Hagerman. The application identifies the location of the fish propagation and "mitigation for irrigation" places of use as the Rangen fish facility located approximately 2.7 miles south and 2.4 miles east of Hagerman.

✓
36-17002

RANGEN INC

PO BOX 706

BUHL, ID 83316

Point of Diversion SWSWNW S32 T07S R14E GOODING County
Source SPRINGS Tributary BILLINGSLEY CREEK

Point of Diversion SESWNW S32 T07S R14E GOODING County
Source SPRINGS Tributary BILLINGSLEY CREEK

Use: FISH PROPAGATION 01/01 to 12/31 59 CFS

Total Diversion: 59 CFS

Date Filed: 2/3/2014

Place Of Use: FISH PROPAGATION

T07S R14E S31 SWNE SENE

Application proposes appropriating 59 cfs of water from springs for fish propagation use at the Rangen fish facility located approximately 2.7 miles south and 2.4 miles east of Hagerman. The proposed points of diversion are located at the head of the Rangen fish facility.

✓
**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78999**

MARK T NEWCOMB, 251 E 200 S, RUPERT, ID 83350; has filed Application No. 78999 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2329A, 45-2370. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to add a new point of diversion to two existing groundwater rights. The new well will be drilled on an existing farm located approximately 4 mi. north and 2. mi. east of the City of Declo. Three wells (two existing and one new) will be used to divert up to 3.18 cfs and 1024 af for the irrigation of 256 acres on the farm.

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 March 10, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: February 20th & 27th, 2014

✓ o/c DM
3/6/2014

Maline, Denise

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Wednesday, February 19, 2014 10:48 AM
To: Maline, Denise
Cc: Jaxon Higgs
Subject: Re: Comment Letter

Hi Denise.

We have no objections nor comments to transfer #78999.

Thank you.

Brian

On Feb 18, 2014, at 15:00, "Maline, Denise" <Denise.Maline@idwr.idaho.gov> wrote:

Dear Brian,

Attached please find a cover letter, recommendation form, and a copy of Transfer 78999. Please review the attached information and provide any necessary comments within 21 days. 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

<Comment Letter to WM140 for 78999.docx>

<Transfer 78999.pdf>