

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78962

This is to certify that: JANET YATES AND
KIRTLAND YATES
1941 S 2450 E
MALTA, ID 83342

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>
43-10593	WR/DECREED	6/30/1985	0.840 cfs	N/A	68.5	235.0	GROUND WATER
43-2307	WR/DECREED	3/31/1948	2.900 cfs	666.0 af	166.5	235.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

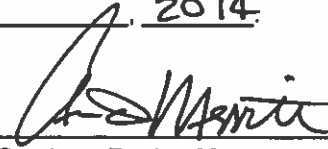
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
43-10593	NO	NO	NO	YES	NO	NO
43-2307	NO	NO	NO	YES	NO	NO

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>
43-10593	43-10593	0.840 cfs	N/A	68.5	235.0	N/A	N/A	N/A	N/A	N/A
43-2307	43-2307	2.900 cfs	666.0 af	166.5	235.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.900 cfs	666.0 af	N/A	235.0		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 28th day of February, 2014.


Southern Region Manager

SUPPORT DATA

IN FILE # 43-2307

Transfer No. 78962

WATER RIGHT NO. 43-2307
As Modified by Transfer No. 78962

In accordance with the approval of Transfer No. 78962, Water Right No. 43-2307 is now described as follows:

Right Holder: JANET YATES
KIRTLAND YATES
1941 S 2450 E
MALTA, ID 83342

Priority Date: 3/31/1948

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	2.900 cfs	666.0 af
			2.900 cfs	666.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSW	Sec 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	SWSW	Sec 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	SENW	Sec 34 Twp 13S Rge 27E CASSIA 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	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 166.5

POU Total Acres: 235.0

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2. This right is limited to the irrigation of 166.5 acres within the place of use described above in a single irrigation season.
3. Rights 43-2307 and 43-10593 when combined shall not exceed a total diversion rate of 2.90 cfs, a total annual maximum diversion volume of 666 af at the field headgate, and the irrigation of 235 acres.
4. This right does not grant any right-of-way or easement across the land of another.
5. The right holder shall accomplish the change authorized by this transfer within 1 year of the date of this approval.

Transfer No. 78962

WATER RIGHT NO. 43-2307
As Modified by Transfer No. 78962

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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. 43-10593
As Modified by Transfer No. 78962

In accordance with the approval of Transfer No. 78962, Water Right No. 43-10593 is now described as follows:

Right Holder: KIRTLAND YATES
JANET YATES
1941 S 2450 E
MALTA, ID 83342

Priority Date: 6/30/1985

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

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

Diversion Rate
0.840 cfs
0.840 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSW	Sec 33 Twp 13S Rge 27E	CASSIA County
GROUND WATER	SWSW	Sec 33 Twp 13S Rge 27E	CASSIA County
GROUND WATER	SENW	Sec 34 Twp 13S Rge 27E	CASSIA 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	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 68.5
POU Total Acres: 235.0

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2. This right is limited to the irrigation of 68.5 acres within the place of use described above in a single irrigation season.
3. Rights 43-2307 and 43-10593 when combined shall not exceed a total diversion rate of 2.90 cfs, a total annual maximum diversion volume of 666 af at the field headgate, and the irrigation of 235 acres.
4. This right is an expansion of Right No. 43-2307 pursuant to Section 42-1416B, Idaho Code.
5. The right holder shall accomplish the change authorized by this transfer within 1 year of the date of this approval.

Transfer No. 78962

WATER RIGHT NO. 43-10593

As Modified by Transfer No. 78962

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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.

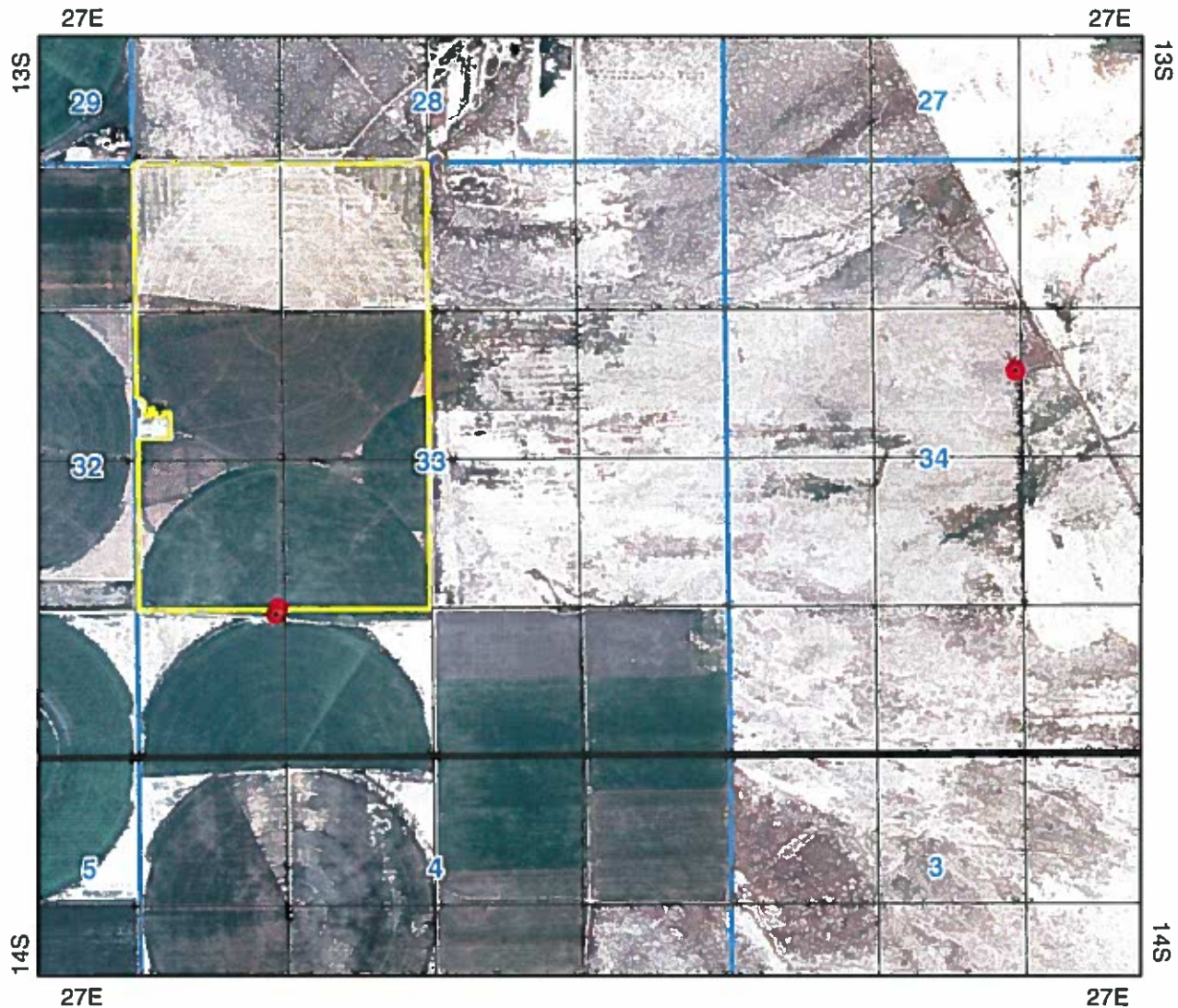


State of Idaho
Department of Water Resources

Attachment To Transfer No. 78962

Rights: 43-2307 and 43-10593

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 0.175 0.35 0.7 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

February 28, 2014

KIRTLAND YATES
JANET YATES
1941 S 2450 E
MALTA ID 83342

Re: Transfer No: 78962
Water Right No(s): 43-2307, 43-10593

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 distinct "M".

Allen Merritt
Southern Region Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 78962

Water Right No(s): 43-2307, 43-10593

**KIRTLAND YATES
JANET YATES
1941 S 2450 E
MALTA ID 83342**

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid 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.

Affidavit of Publication
STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

RECEIVED
FEB 14 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

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 6th day of February, 2014 and ending with the issue dated 13th 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 13th 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.

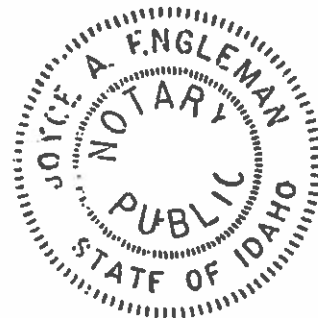
Joyce A. Engleman

Notary Public for Idaho
Residing at Twin Falls, Idaho

6/28/19

My commission expires: _____

✓ *ok dm*
2/25/2014



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

✓ 37-22850

CITY OF GOODING

308 5TH AVE W

GOODING, ID 83330

Point of Diversion SWSW S32 T05S R15E GOODING County

Source GROUND WATER Tributary

Point of Diversion L1(NENE) S6 T06S R15E GOODING County

Source GROUND WATER Tributary

Point of Diversion NESE S31 T05S R15E GOODING County

Source GROUND WATER Tributary

Point of Diversion SESW S32 T05S R15E GOODING County

Source GROUND WATER Tributary

Point of Diversion SWSW S5 T06S R15E GOODING County

Source GROUND WATER Tributary

Point of Diversion SENE S6 T06S R15E GOODING County

Source GROUND WATER Tributary

Use: MUNICIPAL 03/15 to 11/15 7.21 CFS

Total Diversion: 7.21 CFS

Date Filed: 8/27/2013

Place Of Use: MUNICIPAL

Place of use is within City of Gooding Service Area

Application proposes diverting up to 7.21 cfs from three existing wells and up to three new wells to be drilled all located within the City of Gooding. Water will be used for municipal use during the irrigation season within the City of Gooding service area. A mitigation plan, proposing recharging Little Wood River rights as described in companion transfer #78927, has been included with the application.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 78927

✓ **CITY OF GOODING, 308 5TH AVE W, GOODING, ID 83330;** has filed Application No. 78927 for changes to the following water rights within GOODING County(s): Right No(s). 37-262A, 37-271A, 37-282, 37-662, 37-709A, 37-960A. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing 7.21 cfs of Little Wood River rights currently authorized for irrigation use within the City of Gooding to groundwater recharge use northeast of the city. The application also proposes changing the authorized point of diversion from several locations in and near the City of Gooding to a new location approximately 1.9 miles north and 4.35 miles east of the Highway 26 and Highway 46 intersection at the south edge of Gooding. The proposed recharge site is generally located approximately 2.0 - 3.0 miles north and 1.5 - 3.75 miles east of the Highway 26 and Highway 46 intersection at the south edge of Gooding. The application proposal is associated with a mitigation plan submitted with companion Application for Permit 37-22850.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 78928

✓ **CITY OF GOODING, 308 5TH AVE W, GOODING, ID 83330;** has filed Application No. 78928 for changes to the following water rights within GOODING County(s): Right No(s). 37-11221, 37-4080. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the authorized points of diversion for two municipal groundwater rights for the City of Gooding. The application proposes allowing for the diversion of up to 7.05 cfs of water from three existing wells and up to three proposed new wells all located within the City of Gooding.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 78962

✓ **JANET YATES and KIRTLAND YATES, 1941 S 2450 E, MALTA, ID 83342;** has filed Application No. 78962 for changes to the following water rights within CASSIA County(s): Right No(s). 43-10593, 43-2307. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a point of diversion to groundwater irrigation rights 43-2307 & 43-10593, currently authorized for use on a farm located approximately 3.5 - 4.2 mi. S & 2.8 - 3.4 mi. E of Malta. These rights are currently authorized to divert 2.9 CFS (235 acres) from two wells located approximately 4.2 mi. S & 3.1 mi. E of Malta. Application proposes to add an existing well, located approximately 3.8 mi. S & 4.3 mi. E of Malta, to be allowed to be used under these rights.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 78963

✓ **UNITED STATES OF AMERICA ACTING THROUGH, USDI BUREAU OF LAND MANAGEMENT, IDAHO STATE OFFICE, 1387 S VINNELL WAY, BOISE, ID 83709-1657;** has filed Application No. 78963 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2408. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a point of diversion to groundwater irrigation right 43-2408, currently authorized for use on a farm located approximately 4.2 - 5.0 mi. S & 3.3 - 3.8 mi. E of Malta. This right is currently authorized to divert 2.45 CFS (200 acres) from a well located approximately 4.9 mi. S & 3.6 mi. E of Malta. Application proposes to add an existing well, located approximately 3.8 mi. S & 4.3 mi. E of Malta, to be allowed to be used under this right.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 79020

✓ **J7 LLC, C/O JEFFREY C JOHNSON, PO BOX 147, MALTA, ID 83342-0147;** has filed Application No. 79020 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2356B, 43-2441C, 43-4022B, 43-4023B, 43-4024D, 43-4130B. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes creating a 949.4 acre permissible place of use on a farm located approximately 4.5 to 6.75 miles south and 1.75 to 3.25 miles east of Malta. Five rights on the farm will be modified to allow for use in the proposed permissible place of use. In addition, a 38 acre right currently used on a farm located approximately 8.25 to 10.5 miles south and 1.75 to 3.25 miles east of Malta will be moved to the proposed permissible place of use. The application proposes diverting up to 17.5 cfs from five existing wells on the farm located approximately 4.5 to 6.75 miles and 1.75 to 3.25 miles east of Malta.

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 see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. 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 February 24, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: February 6 and 13, 2014

✓ ok DM
2/25/2014