

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 78876**

This is to certify that: **MASON BROTHERS LLC**
3981 N 3600 E
KIMBERLY, ID 83341

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>
47-135	WR/DECREED	4/15/1888	1.200 cfs	N/A	N/A	140.0	ROCK CREEK
47-155	WR/DECREED	3/14/1892	2.000 cfs	N/A	N/A	140.0	ROCK CREEK

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>
47-135	NO	YES	NO	NO	NO	NO
47-155	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>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>
47-135	47-135	1.200 cfs	N/A	N/A	140.0	N/A	N/A	N/A	N/A	N/A
47-155	47-155	2.000 cfs	N/A	N/A	140.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.800 cfs	N/A	N/A	140.0		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 5th day of December, 2013.


Southern Region Manager

SUPPORT DATA

IN FILE # 47-135

Transfer No. 78876

WATER RIGHT NO. 47-135
As Modified by Transfer No. 78876

In accordance with the approval of Transfer No. 78876, Water Right No. 47-135 is now described as follows:

Right Holder: MASON BROTHERS LLC
 3981 N 3600 E
 KIMBERLY, ID 83341

Priority Date: 4/15/1888

Source: ROCK CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
 STOCKWATER

From

03/15
 03/15

To
 to 11/15
 to 11/15

Diversion Rate

1.200 cfs
 0.020 cfs
 1.200 cfs

LOCATION OF POINT(S) OF DIVERSION

ROCK CREEK NWSWNW Sec 25 Twp 11S Rge 18E TWIN FALLS 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	
11S	18E	24											38.0	33.0					71.0
11S	18E	25					35.0	34.0											69.0

POU Total Acres: 140.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	18E	24											X	X					
11S	18E	25					X	X											

CONDITIONS OF APPROVAL

1. Rights 47-135 and 47-155 when combined shall not exceed a total diversion rate of 2.8 cfs and the irrigation of 140 acres.
2. Rights 47-135, 47-155, and 47-7428 when combined shall not exceed the irrigation of 140 acres.
3. 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.

Transfer No. 78876

WATER RIGHT NO. 47-135
As Modified by Transfer No. 78876

CONDITIONS OF APPROVAL

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. 47O.
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.
6. This right does not grant any right-of-way or easement across the land of another.
7. Use of this right is combined with water from Twin Falls Canal Co.
8. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
9. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 47-155
As Modified by Transfer No. 78876

In accordance with the approval of Transfer No. 78876, Water Right No. 47-155 is now described as follows:

Right Holder: MASON BROTHERS LLC
 3981 N 3600 E
 KIMBERLY, ID 83341

Priority Date: 3/14/1892

Source: ROCK CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE
 IRRIGATION

From
 03/15

To
 to 11/15

Diversion Rate
 2.000 cfs
 2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

ROCK CREEK NWSWNW Sec 25 Twp 11S Rge 18E TWIN FALLS 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	
11S	18E	24											38.0	33.0					71.0
11S	18E	25					35.0	34.0											69.0

POU Total Acres: 140.0

CONDITIONS OF APPROVAL

1. Rights 47-135 and 47-155 when combined shall not exceed a total diversion rate of 2.8 cfs and the irrigation of 140 acres.
2. Rights 47-135, 47-155, and 47-7428 when combined shall not exceed the irrigation of 140 acres.
3. 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.
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. 470.
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.
6. This right does not grant any right-of-way or easement across the land of another.
7. Use of this right is combined with water from Twin Falls Canal Co.

Transfer No. 78876

WATER RIGHT NO. 47-155
As Modified by Transfer No. 78876

CONDITIONS OF APPROVAL

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.



State of Idaho
Department of Water Resources

Attachment To Transfer No. 78876

Rights: 47-135 and 47-155

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 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 5, 2013

MASON BROTHERS LLC
3981 N 3600 E
KIMBERLY ID 83341

Re: Transfer No: 78876
Water Right No(s): 47-135, 47-155

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 initial "A" and a prominent "M".

Allen Merritt
Southern Region Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

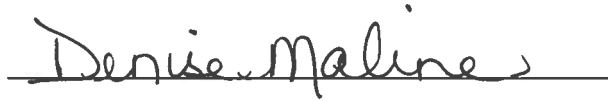
Re: Transfer No.: 78876

Water Right No(s).: 47-135, 47-155

MASON BROTHERS LLC

3981 N 3600 E

KIMBERLY ID 83341

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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 5, 2013

RYAN FRANKLIN WATERMASTER
WATER DISTRICT # 47-O
1897 E 3700 N
FILER, ID 83328

Re: **APPROVED** Transfer No. 78876 (Mason Brothers LLC)

Dear Mr. Franklin:

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

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

RECEIVED
NOV 18 2013
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 78876

Water Right No(s): 47-135, 47-155

Transfer Applicant's Name: MASON BROTHERS LLC
3891 N 3600 E
KIMBERLY, ID 83341

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:

The Nonuse is not taken into account.

- c) _____ I oppose approval of this application for the following reasons:

- d) X Additional comments:

These water rights have not been delivered for over 10 years.
As far as payment from the current owners, it hasn't been
paid for close to 15 years.

Dated this 18 day of November, 2013

Water District No. 47-O



Watermaster's Signature

Ryan Franklin

Printed Name

RECEIVED

NOV 15 2013

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, Twins 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 7th day of November, 2013 and ending with the issue dated 14th day of November, 2013

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

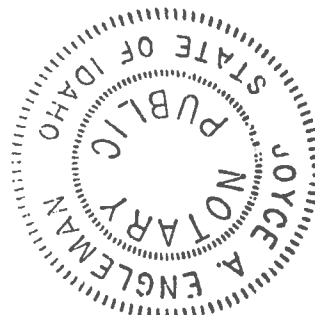
On this 14th day of November, 2013, before me,

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.

Angela Engleman
Notary Public for Idaho
Residing at Twin Falls, Idaho.

6/28/19

My commission expires: _____



✓ OK AM
11/27/2013

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

47-17614

DOUGLAS L ELGAN

CLARELYN ELGAN

4785 N 1115 E

BUHL, ID 83316

Point of Diversion L2(NWNW) S33 T08S R14E TWIN FALLS

County Source GROUND WATER Tributary

Use: DOMESTIC 01/01 to 12/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 10/15/2013

Place Of Use: DOMESTIC

T08S R14E S33 L2(NWNW)

Application seeks to appropriate 0.03 cfs of low temperature geothermal water from a new well to be drilled for domestic purposes on property located near the Snake River approximately 3.3 miles west and 6.6 miles north of the center of Buhl. The domestic use is an existing use that has utilized water from a neighbor's well in years past. The applicants propose drilling their own well and utilizing water from this new well for the existing domestic use via this application.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78876**

MASON BROTHERS LLC, 3981 N 3600 E, KIMBERLY, ID 83341; has filed Application No. 78876 for changes to the following water rights within TWIN FALLS County(s): Right No (s). 47-135, 47-155. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the point of diversion for two Rock Creek water rights to a new downstream location. The two rights currently allow for the diversion of up to 2.8 cfs from Rock Creek via two points of diversion located approximately 6.8 miles south & 0.35 miles east and 7.9 miles south & 0.4 miles east of the Highway 30 and Rock Creek Road intersection in Hansen. The rights allow for the irrigation of 140 acres on a farm located along the east side of Rock Creek Road approximately 5.75 - 6.25 miles south of the Highway 30 and Rock Creek Road intersection in Hansen. The application proposes moving the diversion location from the two currently authorized locations to a new downstream diversion located on Rock Creek along the east side of Rock Creek Road approximately 6.25 miles south of the Highway 30 and Rock Creek Road intersection in Hansen.

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, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 25, 2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: November 7 and 14, 2013

✓ OK DM 11/27/2013