

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78760

This is to certify that: BARBARA TOMASI
130 GLENDALE RD
BELLEVUE, ID 83313

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>
37-43C	WR/DECREED	6/1/1891	0.470 cfs	N/A	N/A	16.0	BIG WOOD RIVER
37-562A	WR/DECREED	5/10/1887	0.210 cfs	N/A	N/A	4.0	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>
37-43C	NO	NO	YES	NO	NO	NO
37-562A	NO	NO	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>
37-43C	37-43C	0.470 cfs	N/A	16.0	20.0	N/A	N/A	N/A	N/A	N/A
37-562A	37-562A	0.210 cfs	N/A	4.0	20.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.680 cfs	N/A	20.0	20.0		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 23rd day of October, 2013.


Southern Region Manager

SUPPORT DATA

Transfer No. 78760

IN FILE # 37-43C

WATER RIGHT NO. 37-562A
As Modified by Transfer No. 78760

In accordance with the approval of Transfer No. 78760, Water Right No. 37-562A is now described as follows:

Right Holder: BARBARA TOMASI
 130 GLENDALE RD
 BELLEVUE, ID 83313

Priority Date: 5/10/1887

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION
 MITIGATION

From

04/15
 04/15

To

to 10/31
 to 10/31

Diversion Rate

0.200 cfs
 0.010 cfs
 0.210 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SESW

Sec 12 Twp 01N 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	
01N	18E	14				20.0													20.0

Right Acre Limit: 4.0

POU Total Acres: 20.0

CONDITIONS OF APPROVAL

1. This right shall be charged a loss of 0.01cfs for mitigation purposes to be left in the river.
2. This right is limited to the irrigation of 4 acres within the authorized place of use in a single irrigation season.
3. Rights 37-43C and 37-562A when combined shall not exceed a total diversion rate of 0.67 cfs to be delivered at the head of Glendale canal, and the irrigation of 20 acres.
4. 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 diversions.
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.37.
6. Place of use does not include federal public lands.

Transfer No. 78760

WATER RIGHT NO. 37-562A
As Modified by Transfer No. 78760

CONDITIONS OF APPROVAL

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.



WATER RIGHT NO. 37-43C
As Modified by Transfer No. 78760

In accordance with the approval of Transfer No. 78760, Water Right No. 37-43C is now described as follows:

Right Holder: BARBARA TOMASI
 130 GLENDALE RD
 BELLEVUE, ID 83313

Priority Date: 6/1/1891

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE
 IRRIGATION

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

Diversion Rate
 0.470 cfs
 0.470 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER SESW Sec 12 Twp 01N Rge 18E BLAINE 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	
01N	18E	14				20.0													20.0

Right Acre Limit: 16.0

POU Total Acres: 20.0

CONDITIONS OF APPROVAL

1. Place of use is located within Lot 3, Sleepy Acres Subdivision.
2. This right is limited to the irrigation of 16 acres within the authorized place of use in a single irrigation season.
3. Rights 37-43C and 37-562A when combined shall not exceed a total diversion rate of 0.67 cfs to be delivered at the head of Glendale canal, and the irrigation of 20 acres.
4. 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.
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. 37.
6. Place of use does not include federal public lands.

Transfer No. 78760

WATER RIGHT NO. 37-43C
As Modified by Transfer No. 78760

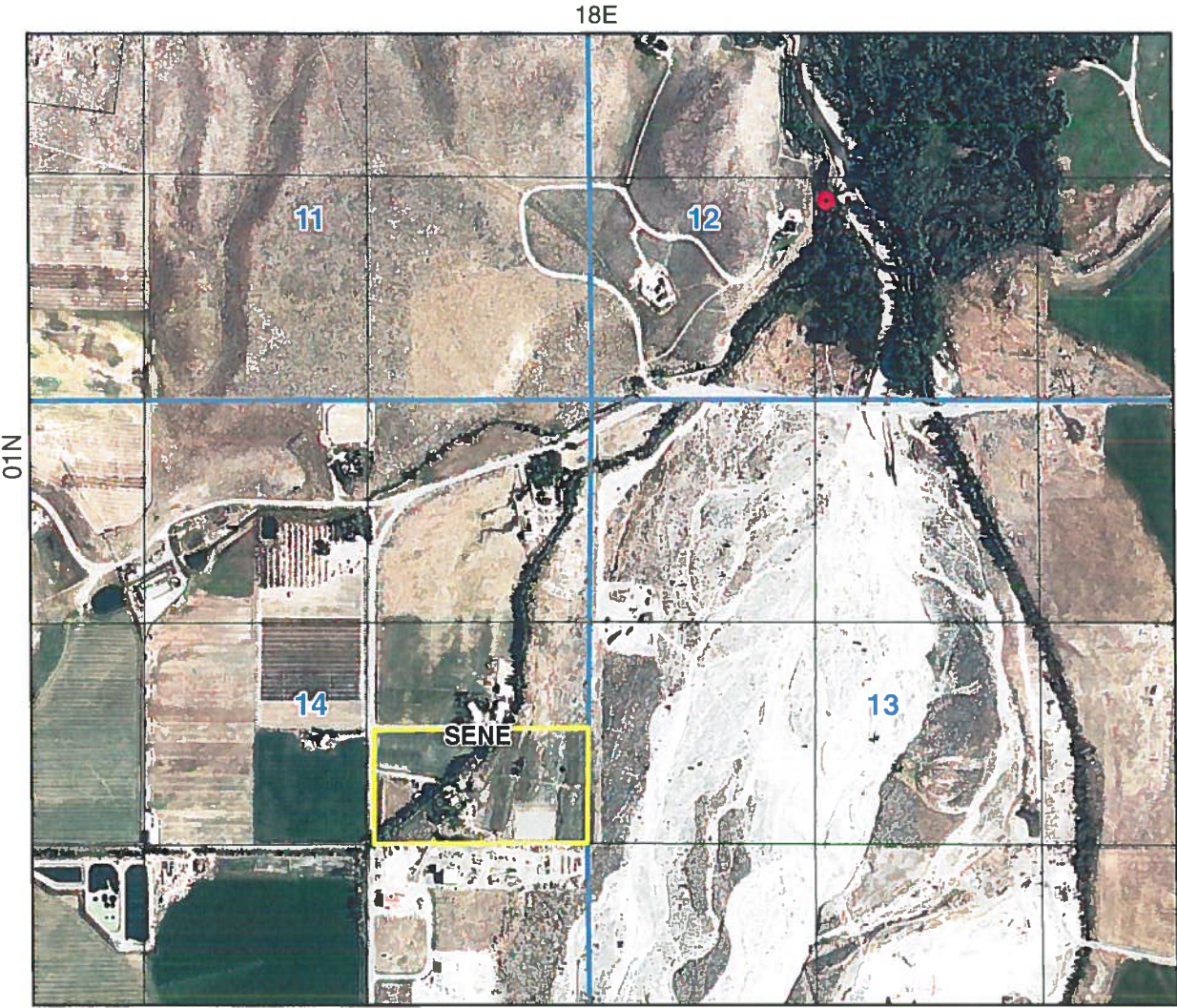
CONDITIONS OF APPROVAL

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. 78760
Rights: 37-43C and 37-562A

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





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

October 25, 2013

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

(via E-mail)

Re: **APPROVED Transfer No. 78759 (Brown Ranch LLC)**

Re: **APPROVED Transfer No. 78760 (Barbara Tomasi)**

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,

Denise Maline
Administrative Assistant

Enclosure

SCANNED

OCT 25 2013



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 23, 2013

BARBARA TOMASI
130 GLENDALE RD
BELLEVUE ID 83313

Re: Transfer No: 78760
Water Right No(s): 37-43C , 37-562A

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:

ERO RESOURCES CORP
C/O NORM YOUNG
3314 GRACE ST
BOISE ID 83703

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 78760
Water Right No(s): 37-43C , 37-562A**

**BARBARA TOMASI
130 GLENDALE RD
BELLEVUE ID 83313**

**ERO RESOURCES CORP
C/O NORM YOUNG
3314 GRACE ST
BOISE ID 83703**

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.

Mills, William

From: Norm Young [nyoung@erresources.com]
Sent: Tuesday, October 22, 2013 12:20 PM
To: Mills, William
Subject: RE: Tomasi Transfer #78760

Bill:

Thanks for the update on the Tomasi application. I have not contacted Ms. Tomasi, but I agree with Allen that the point of rediversion will not be used by Tomasi. Likewise, I do not see that using the same legal description for the location of the point of diversion of the Glendale Canal should be a concern. I would prefer to use the 40-acre description rather than the 10-acre.

I am not sure why the rediversion point is listed on the decree for 37-562A. My understanding is that it is the point that Brown Ranch takes its water rights from the Glendale Canal rather than the river.

I am concerned by the proposed limitation of 0.02 cfs per acre and 3.5 af/a when combined with other rights. This differs from the decrees. Extra water is needed in this area for delivery loss in ditches, permeable fields and to use the flood flows when available.

If the right numbers are not being changed, I suspect Dan Brown would appreciate keeping the 37-562A for his remaining portion of the right.

Norm

-----Original Message-----

From: Mills, William [<mailto:William.Mills@idwr.idaho.gov>]
Sent: Tuesday, October 22, 2013 7:12 AM
To: Norman Young
Subject: Tomasi Transfer #78760

Norm,

Allen was reviewing the Tomasi transfer (78760) for approval and he pointed out that although the application indicates no change in points of diversion, right 37-562A has two points of diversion, with one being a rediversion (Sec 14, NENWSE) that was likely used in the past to deliver this right to the Brown Ranch. Now that the remainder of this right will be delivered to the Tomasi property which is upstream of the rediversion, shouldn't the rediversion be dropped from water right 37-562A?

Additionally, the two rights in the transfer, 37-562A and 37-43C, share the same point of diversion in SESW of Sec. 12. However, on 37-562A it is described down to the 40 acre tract (SESW) and on 37-43C it is described down to the 10 acre tract in the NWSESW. Should we describe both of these the same since both rights are being delivered to the same property and owner?

While this is mostly housekeeping, if you could send me an email addressing both of these issues, I could make the corrections to the transfer application. Call me if you have any questions or concerns, (208)736-3033.

Thanks,

Bill Mills

RECEIVED

AFFIDAVIT of PUBLICATION

SEP 26 2013

COPY OF NOTICE

State of Idaho
County of BlaineDEPT. OF WATER RESOURCES
SOUTHERN REGION

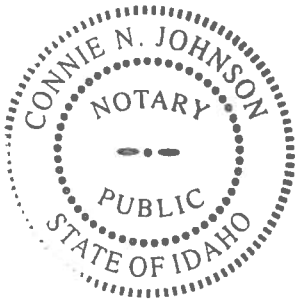
Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight 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 18 day of Sept., 20 13, and the date of the last publication was on the 25 day of Sept., 20 13

Subscribed and sworn to before me this 25 day of

Sept., 20 13.



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 143

Number of Insertions 2

Lines tabular at 9.0 cents/pica

143 Lines straight at 131.56 8.0 cents/pica

143 Subsequent lines at 115.12 7.0 cents/pica

TOTAL COST \$246.68

Legal Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

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

71-10948
MICHAEL HASTINGS
MANDI HASTINGS
258 GEORGETOWN COURT
IDAHO FALLS, ID 83404
Point of Diversion SWNWSE S14
T06N R13E BLAINE County Source
SPRINGS Tributary SALMON RIVER
Use: DOMESTIC 01/01 to 12/31
0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 6/5/2013
Place Of Use: DOMESTIC
T06N R13E S14 NWSE

Application for permit proposes to divert up to 0.04 cfs from a spring for domestic uses associated with home located on the applicants property approximately 25.2 miles south and 3.0 miles east of Stanley. This application proposes the diversion and use of water tributary to the Salmon River, a federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for domestic purposes.

See reverse for remainder of ad:

✓ OK AM 10/2/2013

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78703**

BIG WOOD CANAL CO, C/O LYNN HARMON, MANAGER, 409 N APPLE ST, SHOSHONE, ID 83352; has filed Application No. 78703 for changes to the following water rights within BLAINE, GOODING, LINCOLN County(s): Right No(s). 37-13043, 37-13112, 37-13113, 37-13114, 37-13116, 37-20733, 37-21401, 37-21402, 37-21403, 37-21404, 37-21405, 37-867, 37-870, 37-895. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add an additional point of diversion from the Little Wood River and change the place of use by adjusting the authorized service area boundary for irrigation rights owned by the Big Wood Canal Company. The additional point of diversion from the Little Wood River is located approximately 6.5 miles north and 10.5 miles east of the center of Shoshone. The application proposes limiting the diversion rate from this additional point of diversion to no more than 4.0 cfs. The service area boundary adjustment consists of adding approximately 200 acres located approximately 5.5 – 6.0 miles north and 9.5 – 10.25 miles east of the center of Shoshone. Published in the Idaho Mountain Express on September 18th & 25th, 2013 and the Times News on September 19th & 26th, 2013.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78759**

BROWN RANCH INC, 247 GLENDALE RD, BELLEVUE, ID 83313; has filed Application No. 78759 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22220, 37-22222, 37-22224, 37-22226, 37-22228, 37-43C, 37-562A. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes creating a 240.0 acre permissible place of use (PPU) for seven surface water rights (2.72 cfs total) that when combined will be limited to the irrigation of 53.4 acres. Proposed PPU is located approximately 3.8 to 4.5 miles south and 2.0 to 2.7 miles west of the intersection of Hwy 75 & Broadford Rd in Bellevue.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78760**

BARBARA TOMASI, 130 GLENDALE RD, BELLEVUE, ID 83313; has filed Application No. 78760 for changes to the following water rights within BLAINE County(s): Right No(s). 37-43C, 37-562A. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes creating a 20 acre permissible place of use (PPU) for two surface water rights, a 0.21 cfs right currently limited to 4 acres irrigation and a 0.47 cfs right currently limited to 16 acres irrigation. Proposed PPU is located approximately 3.1 to 3.2 miles south and 0.25 to 0.5 miles west of the intersection of Hwy 75 & Broadford Rd in Bellevue.

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 October 7, 2013. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director

**PUBLISH:
IDAHO MOUNTAIN EXPRESS
Sept. 18 & 25, 2013**

✓ ok DM 10/2/2013