

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 78549**

This is to certify that: **BRIGHAM YOUNG UNIVERSITY**
ATTN: BRIAN EVANS
ADMINISTRATIVE VICE PRESIDENT
ASB B-340
PROVO, UT 84602

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>
43-10137A	WR/DECREED	6/16/1909	0.020 cfs	N/A	N/A	N/A	SPRING
43-10142	WR/DECREED	5/15/1986	0.040 cfs	N/A	N/A	N/A	GROUND WATER
43-2501	WR/DECREED	8/11/1960	0.020 cfs	N/A	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

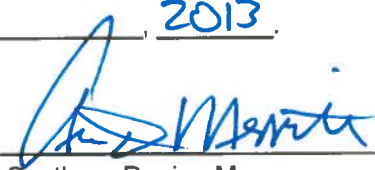
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
43-10137A	NO	NO	YES	NO	NO	NO
43-10142	NO	YES	NO	NO	NO	NO
43-2501	NO	NO	YES	NO	NO	NO

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>
43-10137A	43-10137A	0.020 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
43-10142	43-10142	0.040 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
43-2501	43-2501	0.020 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.080 cfs	N/A	N/A	N/A		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 21st day of August, 2013.


 Southern Region Manager

SUPPORT DATA

Transfer No. 78549

IN FILE # 43-2501

WATER RIGHT NO. 43-2501

As Modified by Transfer No. 78549

In accordance with the approval of Transfer No. 78549, Water Right No. 43-2501 is now described as follows:

Right Holder: BRIGHAM YOUNG UNIVERSITY
C/O OFFICE OF GENERAL COUNSEL
A-357 ASB
PO BOX 21333
PROVO UT 84602-1333

Priority Date: 8/11/1960

Source: GROUND WATER

BENEFICIAL USE

STOCKWATER

From

01/01

to

To

12/31

Diversion Rate

0.020 cfs

0.020 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SESE

Sec 29 Twp 11S Rge 26E CASSIA County

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	26E	19													X				
11S	26E	20											X		X		X		
11S	26E	29													X			X	

CONDITIONS OF APPROVAL

1. The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. The quantity of water under this right shall not exceed 13,000 gallons per day.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.
6. This right, when combined with right 43-10142, shall not exceed a total diversion rate of 0.06 cfs

Transfer No. 78549

WATER RIGHT NO. 43-10142
As Modified by Transfer No. 78549

In accordance with the approval of Transfer No. 78549, Water Right No. 43-10142 is now described as follows:

Right Holder: BRIGHAM YOUNG UNIVERSITY
C/O OFFICE OF GENERAL COUNSEL
A-357 ASB
PO BOX 21333
PROVO, UT 84602-1333

Priority Date: 5/15/1986

Source: GROUND WATER

BENEFICIAL USE
DOMESTIC

From 01/01 **To** 12/31

Diversion Rate
0.040 cfs
0.040 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESE Sec 29 Twp 11S Rge 26E CASSIA County

PLACE OF USE: DOMESTIC

			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	26E	29				X													

CONDITIONS OF APPROVAL

1. The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. The quantity of water under this right shall not exceed 13,000 gallons per day.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.
6. This right, when combined with right 43-2501, shall not exceed a total diversion rate of 0.06 cfs.

Transfer No. 78549

WATER RIGHT NO. 43-10137A
As Modified by Transfer No. 78549

In accordance with the approval of Transfer No. 78549, Water Right No. 43-10137A is now described as follows:

Right Holder: BRIGHAM YOUNG UNIVERSITY
 C/O OFFICE OF GENERAL COUNSEL
 A-357 ASB
 PO BOX 21333
 PROVO, UT 84602-1333

Priority Date: 6/16/1909

Source: SPRING

Tributary: SINKS

BENEFICIAL USE
 STOCKWATER

From 04/01 **To** 12/31

Diversion Rate
 0.020 cfs
 0.020 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING SENESW Sec 19 Twp 11S Rge 26E CASSIA County

PLACE OF USE: STOCKWATER

			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	26E	19													X				
11S	26E	20											X		X		X		
11S	26E	29													X			X	

CONDITIONS OF APPROVAL

1. The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. The quantity of water under this right shall not exceed 13,000 gallons per day.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.

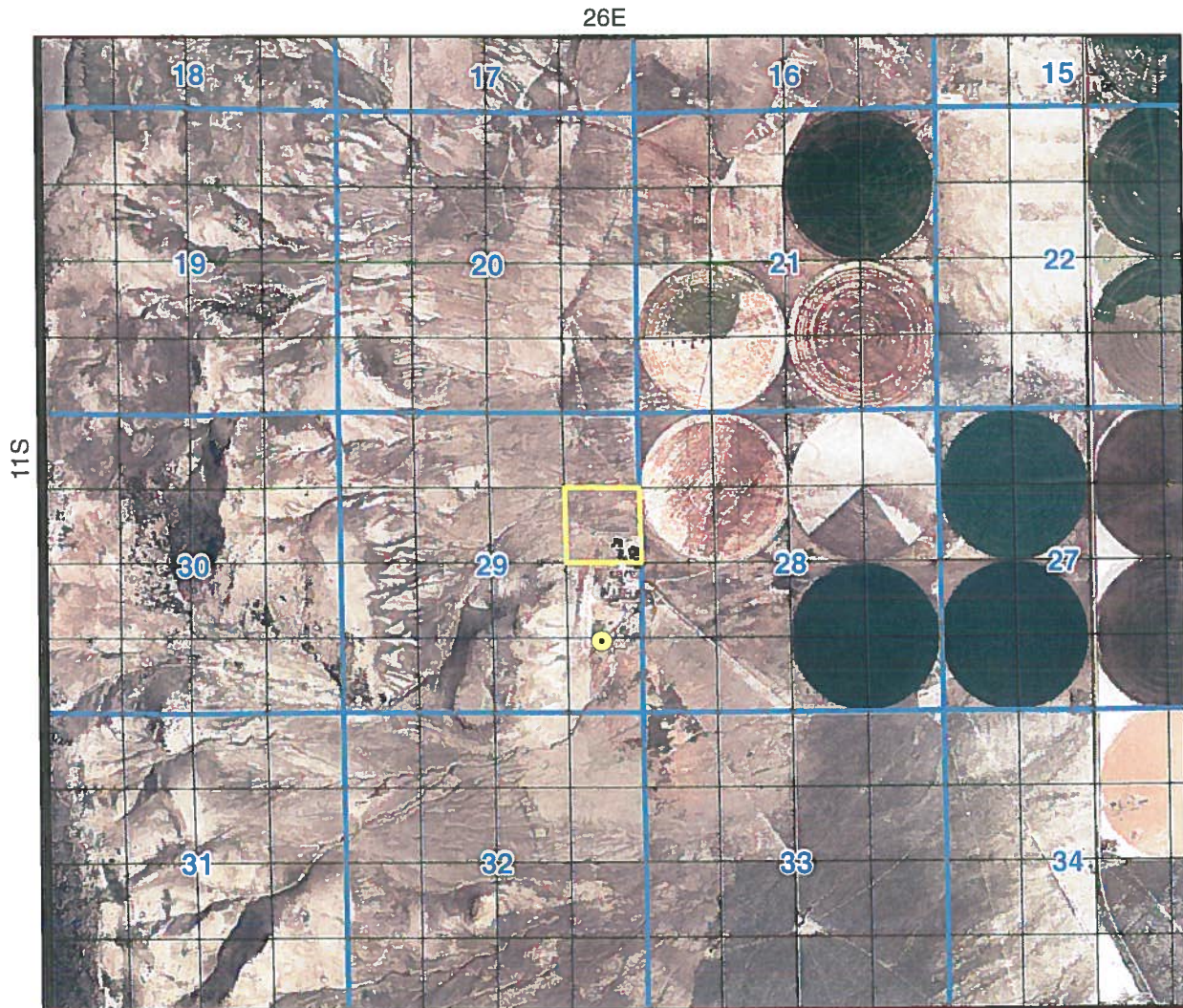
Transfer No. 78549

State of Idaho
Department of Water Resources

Attachment To Transfer No. 78549

43-10142

This map depicts the DOMESTIC 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.



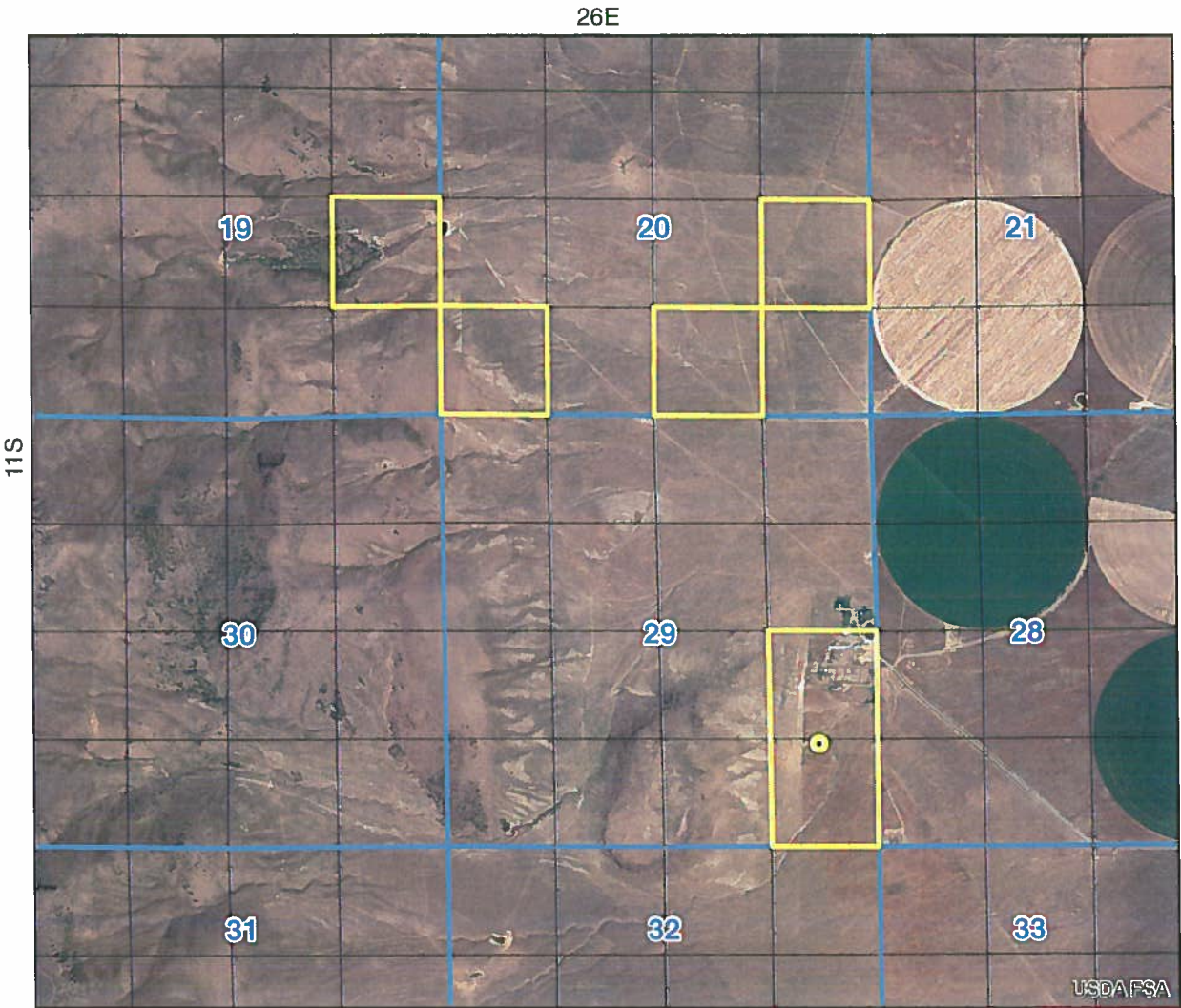
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.375 0.75 1.5 Miles



State of Idaho
Department of Water Resources
Attachment To Transfer No. 78549
43-2501

This map depicts the STOCKWATER 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.



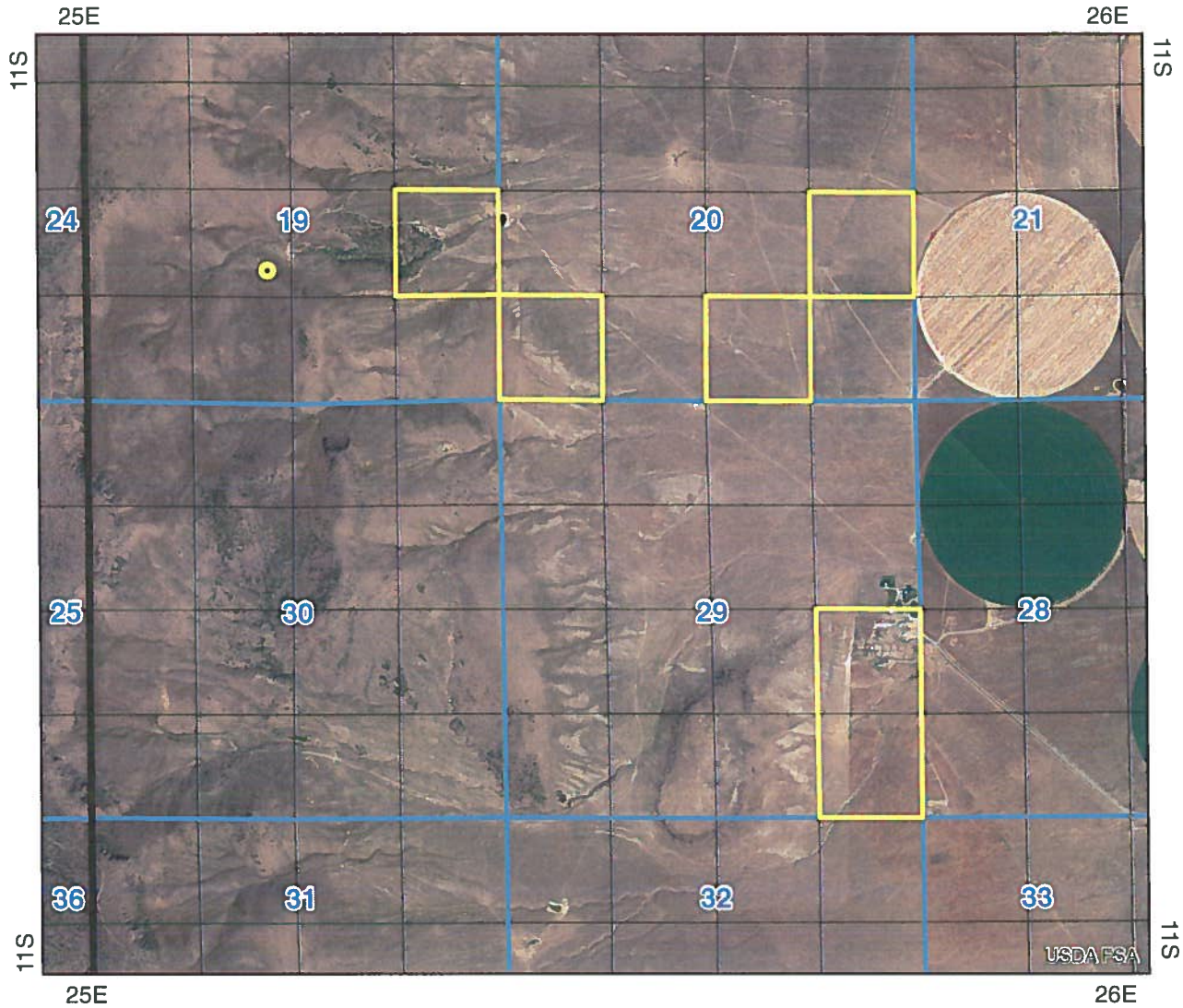
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.275 0.55 1.1 Miles



State of Idaho
Department of Water Resources
Attachment To Transfer No. 78549
43-10137A

This map depicts the STOCKWATER 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 0.275 0.55 1.1 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

August 21, 2013

BRIGHAM YOUNG UNIVERSITY
ATTN: BRIAN EVANS
ADMINISTRATIVE VICE PRESIDENT
ASB B-340
PROVO UT 84602

Re: Transfer No: 78549
Water Right No(s): 43-2501, 43-10137A, 43-10142

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 fluid and cursive, with a large initial "A" and a stylized "M".

Allen Merritt
Southern Region Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 78549

Water Right No(s): 43-2501, 43-10137A, 43-10142

**BRIGHAM YOUNG UNIVERSITY
ATTN: BRIAN EVANS
ADMINISTRATIVE VICE PRESIDENT
ASB B-340
PROVO UT 84602**

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: August 21, 2013
To: Transfer 78549 File
From: Jim Bitzenburg
Re: Memo to file regarding corrections to PODs

This application seeks to change the point of diversion (POD) of groundwater water right 43-10142 (domestic, 0.04 CFS) currently authorized to divert from a well located approximately 9.1 mi. N & 3.3 mi. W of the intersection of State Highways 77 & 81 in Malta, Idaho, to the actual location of the well, located approximately 8.7 mi. N & 3.3 mi. W of Malta. This well is also the POD for water right 43-2501 (stockwater, 0.02 CFS). This well has been connected to the system which supplies water right 43-10137A (stockwater, 0.02 CFS) from an unnamed spring, located approximately 9.8 mi. N & 4.8 mi. W of Malta. The application also intends to combine the places of use (POU) for the stockwater rights (43-2501 & 43-10137A) to reflect the fact that the two systems are now interconnected. The proposed POU is located approximately 8.5 to 10.0 mi. N & 3.1 to 4.5 mi. W of the intersection of State Highways 77 & 81 in Malta.

The application had intended to add the groundwater POD to the spring water right (43-10137A), and the spring POD to the two groundwater rights (43-10142 and 43-2501), but section 5c, part 7 of Transfer Processing Memo 24 (Change of Source), appears to preclude this possibility due to the lack of an immediate hydraulic connection. Additionally, the two PODs are within the Raft River Critical Groundwater Area.

RECEIVED

JUL 12 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 4th day of July, 2013 and ending with the issue dated 11th day of July, 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 uninterrupted.

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 11th day of July, 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.

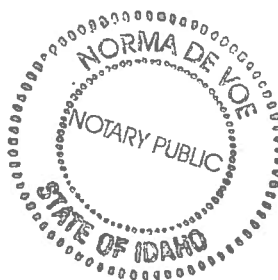
Norma De Vore

Notary Public for Idaho
Residing at Twin Falls, Idaho.

My commission expires:

3/7/19

✓ ok AM
7-24-2013



**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78549**

✓ **BRIGHAM YOUNG UNIVERSITY**, ATTN: BRIAN EVANS, ADMINISTRATIVE VICE PRESIDENT, ASB B-340, PROVO, UT 84602; has filed Application No. 78549 for changes to the following water rights within CASSIA County(s): Right No(s). 43-10137A, 43-10142, 43-2501. The purpose of the transfer is to change a portion of the above rights as follows: This application seeks to change the point of diversion (POD) of groundwater water right 43-10142 (domestic, 0.04 CFS) currently authorized to divert from a well located approximately 9.1 mi. N & 3.3 mi. W of the intersection of State Highways 77 & 81 in Malta, Idaho, to the actual location of the well, located approximately 8.7 mi. N & 3.3 mi. W of Malta. This well is also the POD for water right 43-2501 (stockwater, 0.02 CFS). This well has been connected to the system which supplies water right 43-10137A (stockwater, 0.02 CFS) from an unnamed spring, located approximately 9.8 mi. N & 4.8 mi. W of Malta. Application proposes to show these two PODs on all three rights. The application also intends to combine the places of use (POU) for the stockwater rights (43-2501 & 43-10137A) to reflect the fact that the two systems are now interconnected. The proposed POU is located approximately 8.5 to 10.0 mi. N & 3.1 to 4.5 mi. W of the intersection of State Highways 77 & 81 in Malta.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78674**

✓ **UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT, IDAHO STATE OFFICE, ATTN: FRED PRICE, 1387 S VINNELL WAY, BOISE, ID 83709-1657**; has filed Application No. 78674 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2692. The purpose of the transfer is to change a portion of the above rights as follows: Transfer Application proposes to add a second ground water point of diversion to a stockwater right currently authorized to divert up to 0.02 cfs (14.50 af). This additional point of diversion is an existing well located approximately 3.8 miles south and 4.2 miles east of Malta.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78639**

✓ **7 SPRINGS RANCH LLC, 2025 S HWY 81, MALTA, ID 83342**; has filed Application No. 78639 for changes to the following water rights within CASSIA County(s): Right No(s). 43-368, 43-369A, 43-369B, 43-370, 43-417A, 43-417B, 43-7080. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the place of use of seven rights diverted from Conner Creek, Blacksmith Creek, Mahogany Springs, Sibley Creek, Springs, and Groundwater sources that allow for the irrigation of 211 acres on a farm located along the west side of Highway 77 approximately 7.0 - 8.3 miles south and 3.5 - 4.2 miles east of Albion. The proposed change in place of use consists of rearranging the authorized acres to allow for the irrigation of 211 acres via sprinkler irrigation systems on the farm.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department 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 July 22, 2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PUBLISH: July 4 and 11, 2013

✓ OK AM
7-24-2013