

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 78422**

This is to certify that: MOSS LAND CO LLP
390 N 925 E
DECLO, ID 83323

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>
36-2566	WR/DECREED	4/27/1963	3.820 cfs	1280.0 af	N/A	320.0	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>
36-2566	NO	YES	YES	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>
36-2566	36-2566	3.820 cfs	1280.0 af	320.0	472.4	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.820 cfs	1280.0 af	320.0	472.4		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 15th day of May, 2013.


Southern Region Manager

WATER RIGHT NO. 36-2566**As Modified by Transfer No.**

In accordance with the approval of Transfer No. 78422, Water Right No. 36-2566 is now described as follows:

Right Holder: MOSS LAND CO LLP
390 N 925 E

DECLO, ID 83323

Priority Date: 4/27/1963

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

4/01

to 10/31

To**Diversion Rate**

3.820 cfs

3.820 cfs

Diversion Volume

1280.0 af

1280.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
GROUND WATER

NENESW
SWSE

Sec 26 Twp 08S Rge 22E MINIDOKA County
Sec 26 Twp 08S Rge 22E MINIDOKA 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	
08S	22E	26	40.0	40.0	40.0	40.0	40.0			40.0	40.0			40.0	40.0	40.0	32.4	40.0	472.4
Right Acre Limit:			320.0																
POU Total Acres:			472.4																

CONDITIONS OF APPROVAL

1. The period of use for the irrigation described in this approval may be extended to a beginning date of March 15 and an ending date of November 15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before April 1 and after October 31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than August 27, 2001.
2. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. 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. 130.
4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

Transfer No. 78422

WATER RIGHT NO. 36-2566

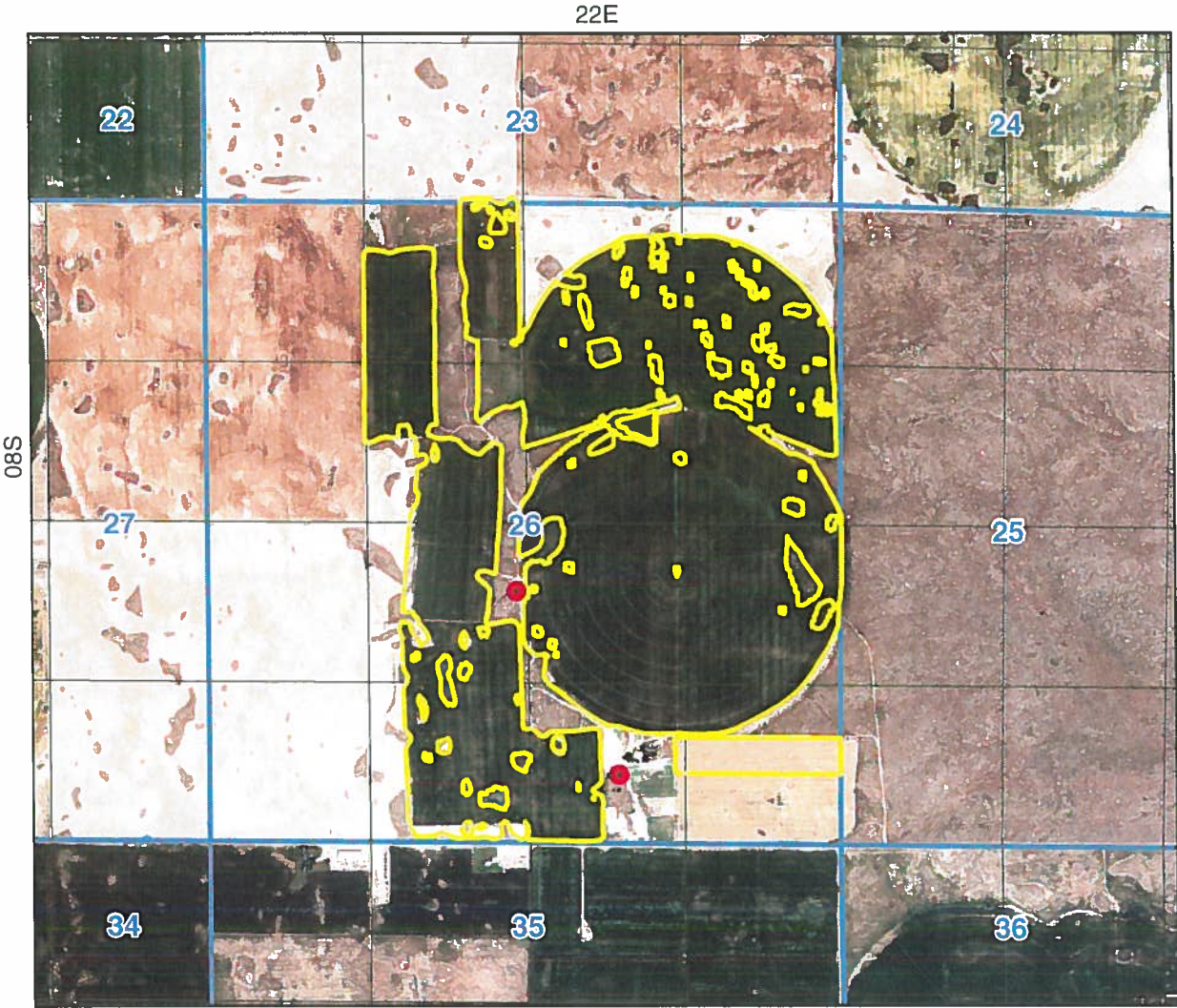
As Modified by Transfer No.

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 78422, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. This right is limited to the irrigation of 320 acres within the authorized place of use in a single irrigation season.
9. This right is limited to the irrigation of a specific 320.0 acres within the 472.4 acre place of use authorized by this right in a single irrigation season. The specific 320.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 320.0 acres to be irrigated within the 472.4 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
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.

State of Idaho
Department of Water Resources
Attachment To Transfer No. 78422
Right 36-2566

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, 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

May 16, 2013

MOSS LAND CO LLP
390 N 925 E
DECLO ID 83323

Re: Transfer No: 78422
Water Right No(s): 36-2566

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, looped initial "A" and a cursive "Merritt".

Allen Merritt
Southern Region Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

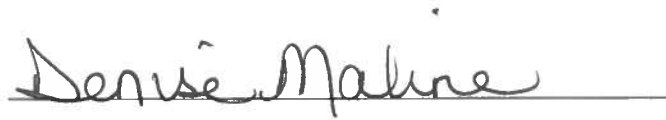
Re: Transfer No.: 78422

Water Right No(s): 36-2566

MOSS LAND CO LLP

390 N 925 E

DECLO ID 83323

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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 16, 2013

CINDY YENTER WATERMASTER
WATER DISTRICT # 130
1341 FILLMORE ST, STE 200
TWIN FALLS, ID 83301

Hand-delivered

Re: **APPROVED Transfer No. 78422 (Moss Land Company)**

Dear Ms. Yenter:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in dark ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant

Enclosure



RECEIVED

MAY 03 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

May 1, 2013

Jim Bitzenburg
Idaho Dept. of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301

RE: Moss Land Co. L.L.P.

Dear Jim:

Moss Land Co. LLP, by partner Dan Moss, has submitted for review to Northwest Farm Credit Services, a signed copy of an application for transfer of water rights under Idaho Department of Water Resources Transfer #78422. It is our understanding that the transfer application needs consent from all mortgage holders who have liens on the ground associated with the points of diversion and use. In review of the application, the transfer is to establish another point of diversion for a new well to be located at T8S R22E in section 26. It is our position the application as presented, does not hinder Farm Credit's lien position or loss of any valuation based on the new Point of Diversion associated with Water Right #39-2566. Northwest Farm Credit Services, who holds the underlying land Mortgage under Transfer application #78422, does not object and gives full consent to pursue the completion of the application for transfer.

Should there be any additional questions or concerns, please give me a call.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Blakeslee".

Robert E. Blakeslee
Relationship Manager
NW Farm Credit Services, Burley

cc: Moss Land Co. LLP
Dan Moss

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No: 78422
Water Right No: 36-2566
Applicant Name: Moss

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☒ Additional comment:

Conditions ok as drafted. Water user will install mag meters prior to 2013 irrigation season. Condition 206 POU map has been submitted.

Dated: April 26, 2013

Water District 130



Cindy J Yenter, Watermaster

RECEIVED

APR 18 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 April, 2013 and ending with the issue dated 11th day of April, 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

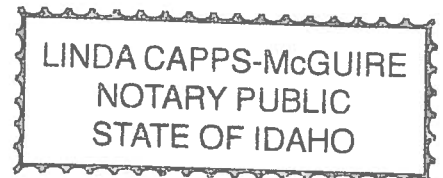
On this 16th day of April, 2013, before me,

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.

Linda Capps McGuire
Notary Public for Idaho
Residing at Twin Falls, Idaho.

My commission expires: 5-19-15

✓ OK DM 4/23/2013



over
→

NOTICE

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

36-16948

OLD CURRAN RANCH LLC

PO BOX 3398

HAILEY, ID 83333

Point of Diversion NENESE S23 T07S R13E GOODING County

Source WASTE WATER Tributary BILLINGSLEY CREEK

Use: DIVERSION TO STORAGE 01/01 to 12/31 6 CFS

Use: WILDLIFE 01/01 to 12/31 6 CFS

Use: WILDLIFE STORAGE 01/01 to 12/31 43.9 AF

Total Diversion: 6 CFS

Date Filed: 8/13/2012

Place Of Use: WILDLIFE AND WILDLIFE STORAGE

T07S R13E S23 SWSE SESE

This is a re-advertisement for Application for Permit 36-16948 to resolve a protest. Applicants propose to change the proposed point of diversion to a location further down the ditch, to address concerns expressed by the protestant. Application proposes diverting up to 6.0 cfs of waste water for wildlife use associated with an existing pond located approximately 1.0 mi. south of the city of Hagerman and west of HWY 30. The waste water has historically been delivered through a ditch from an existing fish hatchery located approximately 0.2 mi. south and 1.0 mi. east of the city of Hagerman.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78482**

CITY OF ALBION, PO BOX 147, ALBION, ID 83311; has filed Application No. 78482 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14165. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a new point of diversion and modifying a permissible place of use for Marsh Creek irrigation water right owned by the City of Albion. The new point of diversion is located approximately 0.6 miles north and 0.6 miles east of the City of Albion and will allow for the diversion and irrigation of different land to facilitate land application of waste water as required by IDEQ. The existing and new point of diversion on Marsh Creek will be used to divert up to 0.91 cfs for irrigation of 37.8 acres within a proposed 83.1 acre permissible place of use.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78483**

HOWARD and KAREN ROBINSON, 2288 WILLIAMSBURG CIRCLE, WEST JORDAN, UT 84088; has filed Application No. 78483 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14377; 45-14379, 45-14381 (Mill Creek); 45-2363 (Ground Water). The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a irrigation ground water right (1.0 cfs) from a farm located approximately 1.0-1.5 miles north and 0.5-1.0 miles east of the City of Oakley, to a farm located approximately 2.0-2.5 miles east and 0.25-0.9 miles north of the City of Oakley. The application will also modify the permissible place of use of three Mill Creek irrigation rights on the farm located approximately 2.0-2.5 miles east and 0.25-0.9 miles north of the City of Oakley. The ground water right (1.0 cfs) will be pumped from an existing well located approximately 0.4 miles north and 2.6 east of the City of Oakley.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78422**

MOSS LAND CO LLP, 390 N 925 E, DECLO, ID 83323; has filed Application No. 78422 for changes to the following water rights within MINIDOKA County(s): Right No(s). 36-2566. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion (POD) and add a POD for a 3.82 CFS, (320 acres) irrigation water right, currently diverted from a well located approximately 6.4 miles north and 3 miles west of the intersection of State Highways 25 and 27 in Paul, ID. The new point of diversion will be located approximately 6.1 miles north and 2.9 miles west of the intersection of State Highways 25 and 27 in Paul. Application seeks to correct the described location of the existing well on the water right to the actual well location. The new POD sought by the application is to allow the applicants to drill a new well in order to withdraw the full diversion rate allowed by their water right because the existing well no longer supplies the full quantity.

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 April 22, 2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: April 4 and 11, 2013

✓ OK DM 4/23/2013