

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78107

This is to certify that: OAKLEY VALLEY WATER CO
PO BOX 201
OAKLEY ID 83346
(208)862-3346

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 Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
45-4273	WR/Decreed	02/12/1954	0.45 cfs	N/A	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

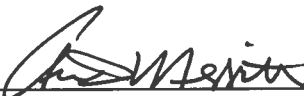
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
45-4273	NO	NO	NO	YES	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
45-4273	45-4273	0.45 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.45 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 6th day of December, 2012



Southern Region Manager

WATER RIGHT NO. 45-4273
As Modified by Transfer No. 78107

In accordance with the approval of Transfer No. 78107, Water Right No. 45-4273 is now described as follows.

Right Holder: OAKLEY VALLEY WATER CO
PO BOX 201
OAKLEY ID 83346

Priority Date: February 12, 1954

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	01/01	to 12/31	0.45 CFS
			0.45 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWSWSW	Sec. 20 Twp 13S	Rge 22E	CASSIA County
GROUND WATER	SWSWSW	Sec. 21 Twp 13S	Rge 22E	CASSIA County
GROUND WATER	SWSWNE	Sec. 29 Twp 13S	Rge 22E	CASSIA County

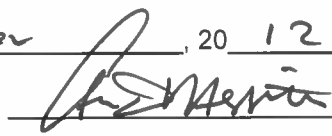
WATER RIGHT NO. 45-4273
As Modified by Transfer No. 78107

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Place of use is within the area served by Oakley Valley Water Company.
3. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
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. 140.
5. 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.
6. 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.
7. Prior to the diversion and use of water under Transfer approval 78107, 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.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

This water right 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.

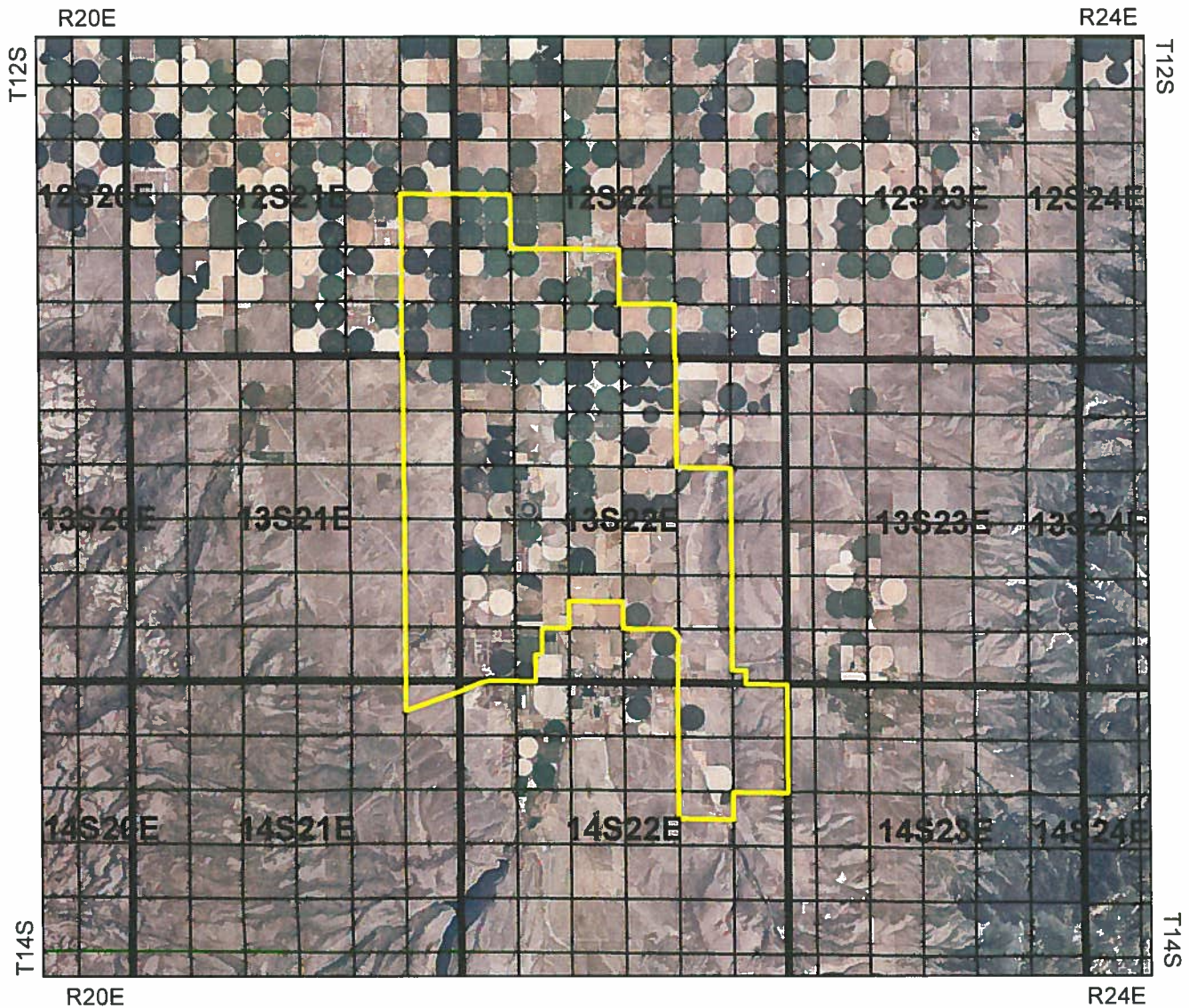
Dated this 6th day of December, 20 12


Southern Region Manager

State of Idaho
Department of Water Resources
Transfer Of Water Right

Transfer No. 78107
Water Service Area Boundary for Oakley Valley Water Co
Rights: 45-4273

December 05, 2012



0 2 4 8 Miles

-  Water Service Area Boundary
-  Townships
-  PLS Sections



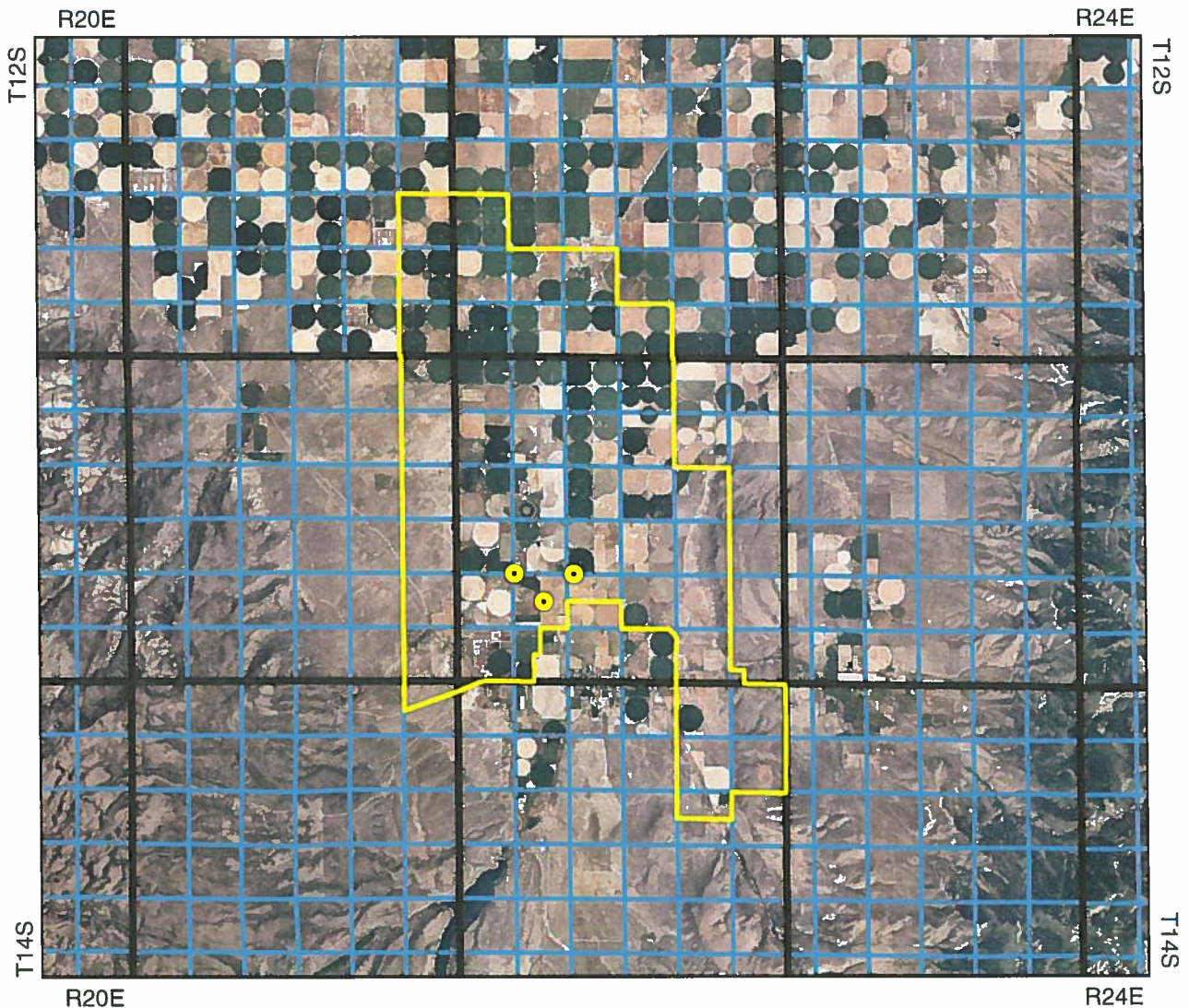
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78107

Rights: 45-4273

This map depicts the MUNICIPAL place of use boundary and the location of the wells for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 2 4 8 Miles

-  Point of Diversion
-  Water Service Area Boundary
-  Townships
-  PLS Sections





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 6, 2012

OAKLEY VALLEY WATER CO
PO BOX 201
OAKLEY ID 83346

RE: Transfer No.: 78107
Water Right No(s): 45-4273

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.

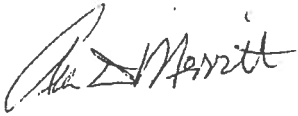
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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 homepage 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 "M".

Allen Merritt
Southern Region Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 78107
 WATER RIGHTS NOS. 45-4273**

**OAKLEY VALLEY WATER CO
PO BOX 201
OAKLEY ID 83346**

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

December 6, 2012

BRIAN HIGGS WATERMASTER
WATER DISTRICT # 140
355 W 500 S
BURLEY, ID 83318

Re: **APPROVED** Transfer No. 78107 (Oakley Valley Water Co.)

Dear Mr. Higgs:

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

NOV 28 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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

Janet Cranney
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 15th day of November, 2012 and ending with the issue dated 22nd day of November, 2012

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.

Janet Cranney
~~Ruby Aufderheide~~, Legal Clerk

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 27th day of November, 2012, before me,

a Notary Public, personally appeared ~~Ruby Aufderheide~~ Janet Cranney
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 commision expires: 5-19-15

✓ RC DM
12/3/2012

LINDA CAPPS-McGUIRE
NOTARY PUBLIC
STATE OF IDAHO

RECEIVED

NOV 28 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78107**

OAKLEY VALLEY WATER CO, PO BOX 201, OAKLEY, ID 83346 has filed Application No. 78107 for changes to the following water rights within CASSIA County(s): Right No(s). 45-4273; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion to a groundwater municipal right (45-4273). Currently right 45-4273 diverts up to 0.45 cfs from two wells located the following approximate distances from Oakley: 2 mi. N & 0.4 mi. W and 2 mi. N & 1.5 mi. W, for municipal uses within the Oakley Valley Water Company service area, generally located on ground surrounding Oakley. Application proposes to add an existing well located approximately 1.5 mi. N & 0.9 mi. W of Oakley.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. 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 December 3, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: November 15th & 22nd, 2012

✓ OK DM 12/3/2012

Maline, Denise

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Wednesday, November 14, 2012 8:49 PM
To: Maline, Denise
Subject: Re: Comment Letter for Transfer 78107

Hi Denise.

I do not oppose transfer #78107 and I have no comments.

Thank you.

Brian

From: [Maline, Denise](#)
Sent: Friday, November 09, 2012 9:10 AM
To: [Brian Higgs](#)
Subject: Comment Letter for Transfer 78107

Attached please find a cover letter, recommendation form, and copy of an Application for Transfer currently being processed by the department. Please review and submit any comments you may have, within 21 days.

If you have any questions regarding the attached information, please feel free to contact our office.

Thank you in advance,

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources
1341 Fillmore St, Ste 200
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov

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Version: 2013.0.2793 / Virus Database: 2624/5883 - Release Date: 11/08/12