

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78193

This is to certify that: PORTER FAMILY LIVING TRUST
PO BOX 2530
KETCHUM ID 83340
(208) 788-3490

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>
37-22766	WR/Decreed	06/03/1884	0.17 cfs	N/A	N/A	4.4	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>
37-22766	NO	YES	NO	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-22766	37-22766	0.17 cfs	N/A	N/A	4.4	N/A	N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.17 cfs	N/A	N/A	4.4	N/A	N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 6th day of December, 20 12



Southern Region Manager

WATER RIGHT NO. 37-22766
As Modified by Transfer No. 78193

In accordance with the approval of Transfer No. 78193, Water Right No. 37-22766 is now described as follows.

Right Holder: PORTER FAMILY LIVING TRUST
PO BOX 2530
KETCHUM ID 83340

Priority Date: June 03, 1884

Source: EAST FORK WOOD RIVER **Tributary:** BIG WOOD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/15	to 10/31	0.17 CFS
			0.17 CFS

LOCATION OF POINT(S) OF DIVERSION:

EAST FORK WOOD RIVER NWSESW Sec. 3 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	18E	3												4.4					4.4

Total Acres: 4.35

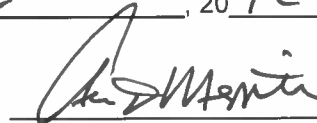
WATER RIGHT NO. 37-22766
As Modified by Transfer No. 78193

CONDITIONS OF APPROVAL

1. The actual diversion rate of this right is .165 cfs.
2. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
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. 37.
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. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. Place of use is located within Lot 29, Block 2 of Hyndman Peak Subdivision.
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.
10. This right is a split from former right 37-539E

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

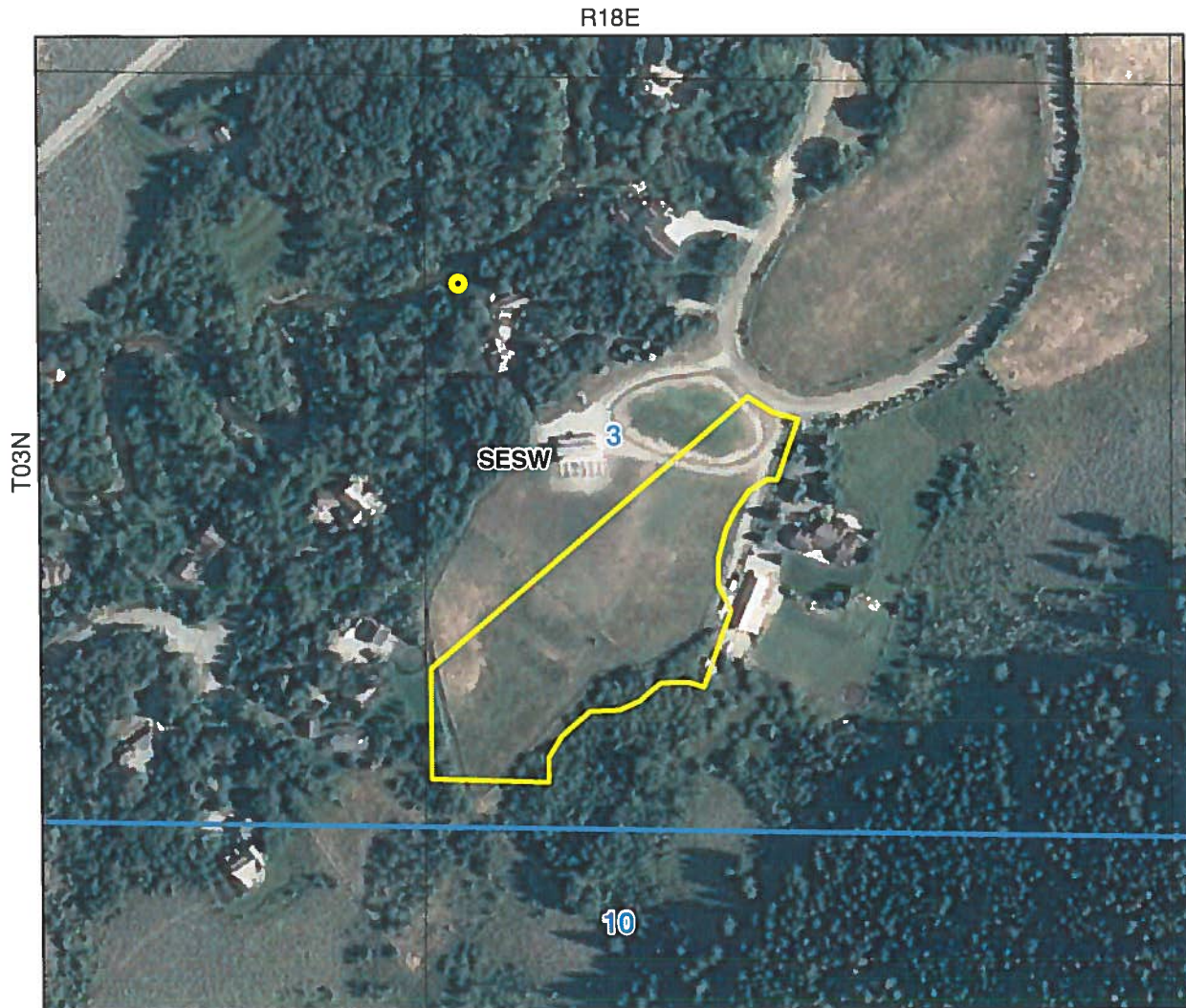
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78193

Rights: 37-22766

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.



0 0.0375 0.075 0.15 Miles

-  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

December 7, 2012

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

Re: **APPROVED** Transfer No. 78142 (Donald E Nickelson)
Re: **APPROVED** Transfer No. 78191 (Porter Family Living Trust)
Re: **APPROVED** Transfer No. 78192 (Porter Family Living Trust)
Re: **APPROVED** Transfer No. 78193 (Porter Family Living Trust)

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,

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



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

PORTER FAMILY LIVING TRUST
PO BOX 2530
KETCHUM ID 83340

RE: Transfer No.: 78191
Water Right No(s): 37-22764

RE: Transfer No.: 78192
Water Right No(s): 37-22765

RE: Transfer No.: 78193
Water Right No(s): 37-22766

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 stylized with a large, looped initial "A" and a cursive "Merritt".

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC

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:

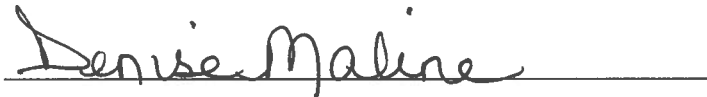
RE: TRANSFER NO. 78191
WATER RIGHTS NOS. 37-22764

RE: TRANSFER NO. 78192
WATER RIGHTS NOS. 37-22765

RE: TRANSFER NO. 78193
WATER RIGHTS NOS. 37-22766

PORTER FAMILY LIVING TRUST
PO BOX 2530
KETCHUM ID 83340

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

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.



RECEIVED

NOV 08 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

IDAHO DEPARTMENT OF FISH AND GAME

MAGIC VALLEY REGION

324 South 417 East, Suite 1

Jerome, Idaho 83338

C.L. "Butch" Otter / Governor

Virgil Moore / Director

November 6, 2012

Denise Maline
Idaho Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, Idaho 83301-3380

**RE: Applications for Transfer of Water Rights: 78191, 78192, 78193, 78130, and 77869
Application for Permit 47-17588**

Dear Denise:

Idaho Department of Fish and Game (IDFG) staff has reviewed the above listed applications for transfer of water rights associated with the East Fork Wood River in Blaine County and the Raft River in Cassia County and the new application for a water right from Deep Creek in Twin Falls County.

The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated. It is not the purpose of IDFG to support or oppose this proposal. Resident species of fish and wildlife are property of all Idaho citizens, and IDFG and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments and recommendations.

Hyndman Peak Subdivision, East Fork Wood River, Blaine County

It is our understanding applications 78191, 78192, 78193, and 78180 are associated with four lots in the Hyndman Peak Subdivision and represent a request to add a new point of diversion downstream of an existing point of diversion. The existing diversion will continue to deliver water to other legal water rights within the same subdivision. Consumptive water use will remain unchanged with a small potential for water savings associated with delivery efficiency.

An additional downstream diversion will result in some water benefits in the river reach between the existing and proposed point of diversion. However, an additional instream pump represents an increased risk of entrainment or impingement for resident salmonids. We recommend the Applicant(s) screen the water intake structures with 1/4" mesh to avoid entraining or impinging juvenile fish and divert (pump) from a location away from potential fish refugia like stream banks with overhanging vegetation or near accumulations of large woody debris.

Keeping Idaho's Wildlife Heritage

Raft River, Cassia County

It is our understanding the application for transfer represents a request to add a new point of diversion downstream of an existing point of diversion (77869). The additional point of diversion will allow for more efficient delivery of water. The existing diversion will continue to deliver water to other legal water rights and consumptive water use will remain unchanged with a small potential for water savings associated with delivery efficiency.

An additional downstream diversion will result in some water benefits in the river reach between the existing and proposed point of diversion. While the delivery method (diversion system) for the new diversion was unclear from the application, an additional instream pump represents an increased risk of entrainment or impingement for resident salmonids. If an instream pump is the intended delivery method, we recommend the Applicant(s) screen the water intake structures with 1/4" mesh to avoid entraining or impinging juvenile fish and divert (pump) from a location away from potential fish refugia like stream banks with overhanging vegetation or near accumulations of large woody debris.

Deep Creek, Twin Falls County

It is our understanding the applicant wishes to secure a new water right (47-17588) that diverts waste-water from an existing irrigation return that runs through the Applicant's property. The purpose of the application is to provide irrigation water for trees. If approved, the new water right would not result in an additional irrigation return to the Deep Creek drainage. Approval of the new water right should have minimal negative impacts on fish and wildlife resources in the area.

Thank you for the opportunity to review the applications. If you have any questions please contact Mike McDonald, Environmental Staff Biologist, at this office.

Sincerely,



H. Jerome Hansen
Magic Valley Regional Supervisor

Cc: IDFG – Boise (Kiefer/Poole)
ECc: R4 staff

RECEIVED

OCT 25 2012

AFFIDAVIT of PUBLICATION

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

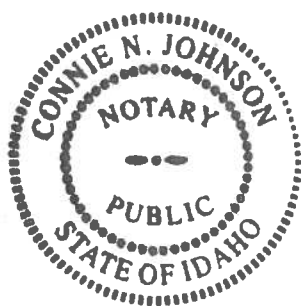
publication of said advertisement was on the 17 day of

Oct., 20 12, and the date of the last publication was

on the 24 day of Oct., 20 12

Subscribed and sworn to before me this 24 day of

Oct., 20 12.



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 147

Number of Insertions 2

147 Lines tabular at 135.24 9.0 cents/pica

147 Lines straight at 118.34 8.0 cents/pica

147 Subsequent lines at 253.58 7.0 cents/pica

TOTAL COST \$253.58

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

LEGAL NOTICE

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

37-22783

BRADLEY S WIRTH

MARY C WIRTH

PO BOX 718

KETCHUM, ID 83340

Point of Diversion NENESE S35

T02N R18E BLAINE County Source

GROUND WATER Tributary

Use: COOLING 01/01 to 12/31 0.1 CFS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: HEATING 01/01 to 12/31 0.1 CFS

Total Diversion: 0.14 CFS

Date Filed: 10/10/2012

Place Of Use: HEATING, COOLING, DOMESTIC

T02N R18E S35 NESE

Application for Permit 37-22783, filed in the name of Bradley S. and Mary C. Wirth, seeks to appropriate 0.14 cfs of ground water for heating, cooling, and domestic use. Heating and cooling uses will be returned to the aquifer through an injection well. The proposed place of use and point of diversion are located approximately 0.5 miles west of the City of Bellevue at 50 Lower Bradford Road.

SEE REVERSE SIDE FOR
REMAINDER OF AD

✓ JK
DM 11-6-2012

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 78162

✓ HEART ROCK RANCH LLC, PO BOX 3724, HAILEY, ID 83333 has filed Application No. 78162 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22051. The purpose of the transfer is to change a portion of the above rights as follows: Transfer application proposes changing the place of use for a 0.04 cfs stockwater and 2.75 cfs wildlife and aesthetic ground water right. This right has historically been diverted into Spring Creek through ditches and overland flow and this transfer is seeking to divert it into a pipe and deliver it into Crystal Creek. Proposed place of use is located approximately 12.0 to 13.5 miles south and 0.5 miles west to 1.4 miles east of the town center in Hailey.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 78191

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530 KETCHUM, ID 83340 has filed Application No. 78191 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22764. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.02 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 0.5 acre within lot 27, Hyndman Peak Subdivision.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 78192

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530, KETCHUM, ID 83340 has filed Application No. 78192 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22765. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.10 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 2.5 acre within lot 28, Hyndman Peak Subdivision.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 78193

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530, KETCHUM, ID 83340 has filed Application No. 78193 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22766. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.17 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 4.35 acre within lot 29, Hyndman Peak Subdivision.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 5, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH:
IDAHO MOUNTAIN EXPRESS
Oct. 17 & 24, 2012



✓ OK DM 11/6/2012

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

RECEIVED
OCT 18 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 78193 Water Right No(s): 37-22766

Transfer Applicant's Name: PORTER FAMILY LIVING TRUST
PO BOX 2530
KETCHUM, ID 83340

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 18th day of October, 2012

Water District No. 37

Kevin Lakey
Signature

Kevin Lakey
Printed Name