

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
TRANSFER OF WATER RIGHT  
TRANSFER NO. 77695**

This is to certify that: IDAHO POWER CO  
C/O JON BOWLING  
PO BOX 70  
BOISE ID 83707  
(208)388-2905

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>
36-2704	WR/Decreed	01/31/1966	120 cfs	48180 af		2.0	NIAGARA SPRINGS

**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>
36-2704	NO	NO	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>
36-2704	<b>36-2704</b>	120 cfs	48180 af	2.0	4.8		N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>120 cfs</b>	<b>48180 af</b>	<b>2.0</b>	<b>4.8</b>		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 6<sup>th</sup> day of December, 2012

  
\_\_\_\_\_  
Southern Region Manager

**WATER RIGHT NO. 36-2704  
As Modified by Transfer No. 77695**

In accordance with the approval of Transfer No. 77695, Water Right No. 36-2704 is now described as follows.

**Right Holder:** IDAHO POWER CO  
C/O JON BOWLING  
PO BOX 70  
BOISE ID 83707

**Priority Date:** January 31, 1966

**Source:** NIAGARA SPRINGS                      **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	to 12/31	120.00 CFS	48,180.0 AF
IRRIGATION	03/15	to 11/15	0.04 CFS	8.0 AF
FIRE PROTECTION	01/01	to 12/31	120.00 CFS	48,180.0 AF
DOMESTIC	01/01	to 12/31	0.04 CFS	1.8 AF
			120.00 CFS	48,180.0 AF

**LOCATION OF POINT(S) OF DIVERSION:**

NIAGARA SPRINGS            L1 (NENE)            Sec. 10 Twp 09S    Rge 15E    GOODING County

NIAGARA SPRINGS            L1 (NENE)            Sec. 10 Twp 09S    Rge 15E    GOODING County

NIAGARA SPRINGS            L1 (NENE)            Sec. 10 Twp 09S    Rge 15E    GOODING County

**PLACE OF USE:** FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 15E 10	X			X													
	L 1			L 9													

**PLACE OF USE:** IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 15E 10	.05			2.9													2.95
	L 1			L 9													
09S 15E 11							1.85										1.85
							L 11										

Total Acres: 4.8

**PLACE OF USE: FIRE PROTECTION**

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 15E 10	X			X													
	L 1			L 9													
09S 15E 11						X	X										
						L 3	L 11										

**PLACE OF USE: DOMESTIC**

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 15E 10	X			X													
	L 1			L 9													
09S 15E 11							X										
							L 11										

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 2.0 acres within the authorized place of use in a single irrigation season.
2. Rights 36-2704, and 36-15221 when combined shall not exceed a total diversion rate of 120 cfs and a total annual maximum diversion volume of 48,180 af.
3. The domestic use authorized under this right shall not exceed 13,000 gallons per day and does not include lawn, garden, landscape, or other types of irrigation.
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. 130.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. Right No. 36-15221 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
7. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
9. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.


**WATER RIGHT NO. 36-2704**  
**As Modified by Transfer No. 77695**

**CONDITIONS OF APPROVAL**

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.
13. 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.
14. Prior to the diversion and use of water under Transfer approval 77695, 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 maintain an existing measuring device.
15. Right No. 36-15221 is also diverted from the northernmost of the three points of diversion (aka "Niagara Utility Line").
16. Use of this water right shall be subject to the terms and conditions of the "Niagara Springs Agreement," dated September 30, 1993, and the "Amendment to Niagara Springs Agreement," dated July 24, 2002.

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.

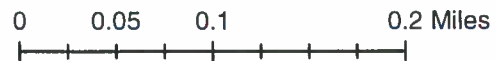
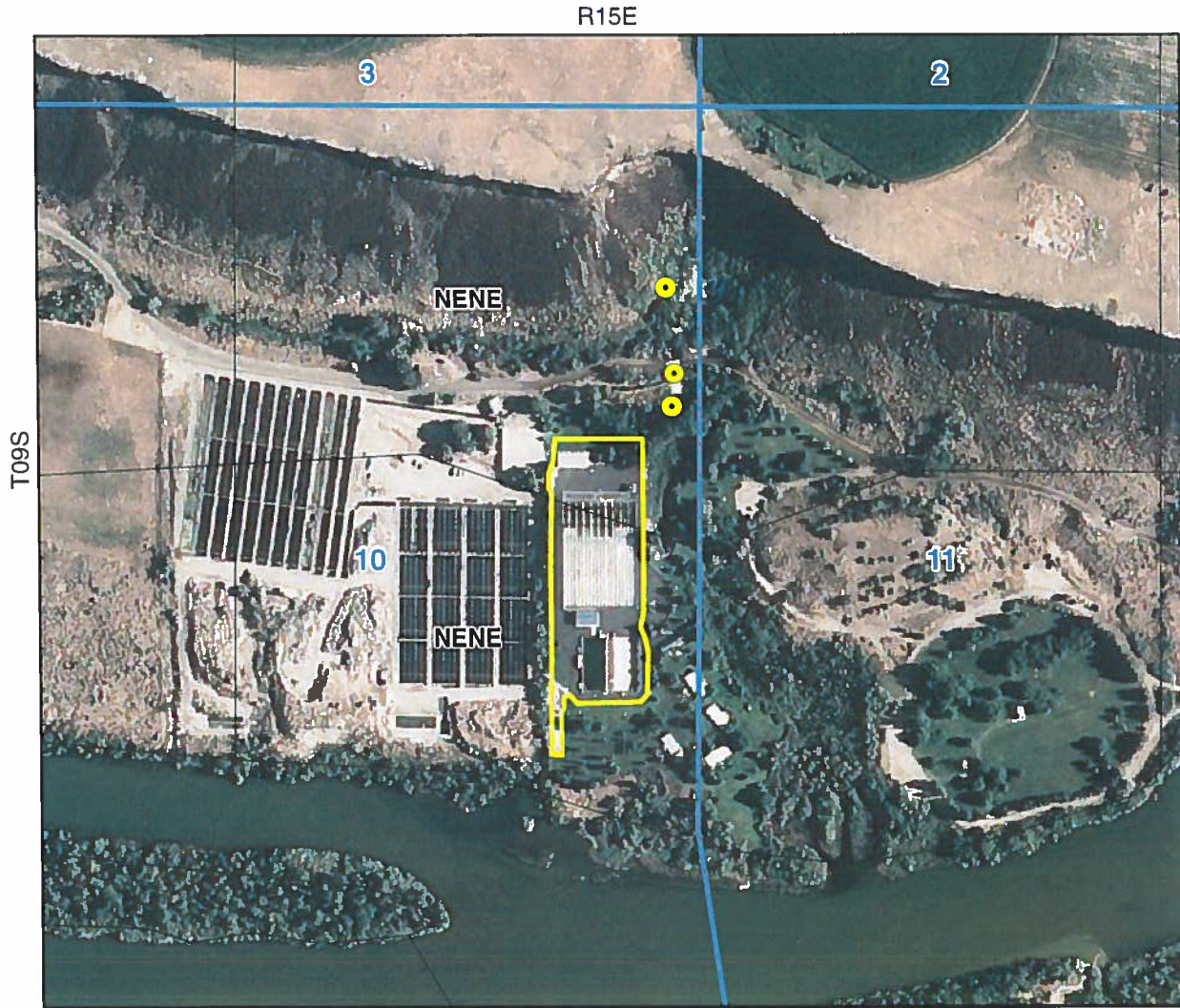
Dated this 6<sup>th</sup> day of December, 2012

  
\_\_\_\_\_  
Southern Region Manager

State of Idaho  
Department of Water Resources  
**Attachment To Transfer Of Water Right**  
Transfer No. 77695

Rights: 36-2704

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



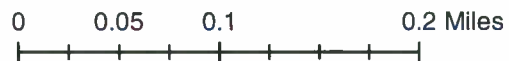
- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters



State of Idaho  
Department of Water Resources  
**Attachment To Transfer Of Water Right**  
Transfer No. 77695

Rights: 36-2704

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



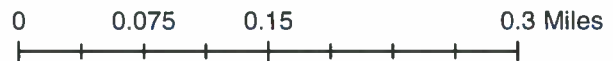
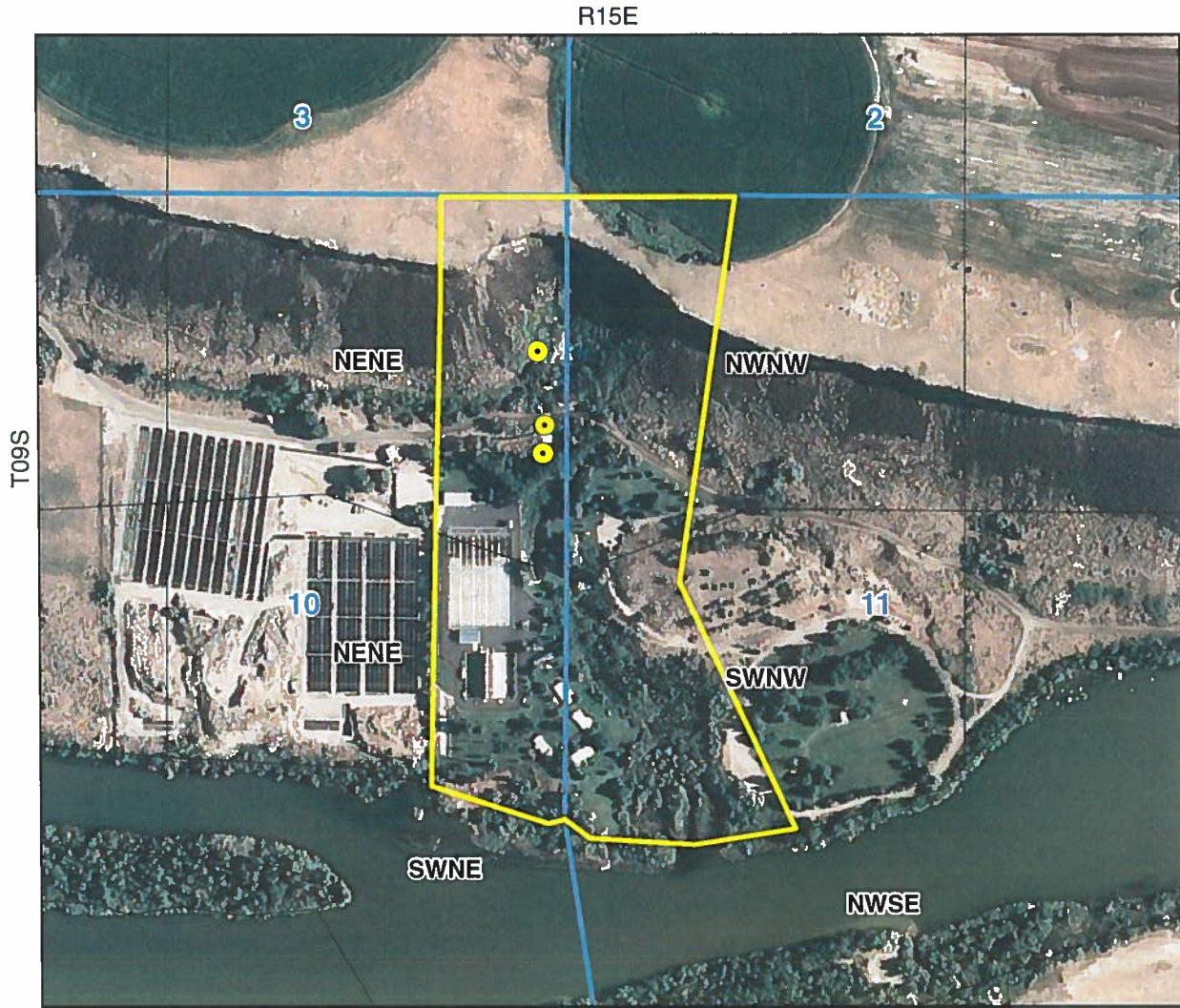
- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters








State of Idaho  
Department of Water Resources  
**Attachment To Transfer Of Water Right**  
Transfer No. 77695

Rights: 36-2704

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



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








State of Idaho  
Department of Water Resources  
**Attachment To Transfer Of Water Right**  
Transfer No. 77695

Rights: 36-2704

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





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](http://www.idwr.idaho.gov)

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

December 6, 2012

IDAHO POWER CO  
C/O JON BOWLING  
PO BOX 70  
BOISE ID 83707

RE: Transfer No.: 77695  
Water Right No(s): 36-2704

**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 written in a cursive style with a large initial "A" and "M".

Allen Merritt  
Southern Region Manager

Enclosure(s)

cc: JAMES C TUCKER, IDAHO POWER COMPANY

**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. 77695  
WATER RIGHTS NOS. 36-2704**

**IDAHO POWER CO  
C/O JON BOWLING  
PO BOX 70  
BOISE ID 83707**

**JAMES C TUCKER  
C/O IDAHO POWER CO  
PO BOX 70  
BOISE ID 83707**

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in black ink and is positioned above a solid 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**

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

December 6, 2012

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

*Hand-Delivered*

Re: **APPROVED Transfer No. 77695 (Idaho Power 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,

Denise Maline  
Administrative Assistant

Enclosure

# MEMORANDUM

**Date:** December 5, 2012  
**To:** Transfer 77695 File  
**From:** Benny Walker  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application proposes changing authorized point of diversion and place of use under an existing water right, 36-2704 for 120.00 cfs from Niagara Springs for fish propagation, irrigation, domestic and fire protection uses associated with the Idaho Power Steelhead Hatchery. This hatchery is located approximately 7 miles south and 1.5 miles east of Wendell. The proposed changes include adding an additional point of diversion from the Niagara Springs complex and describing actual places of use for domestic, irrigation and fire protection uses. The irrigation place of use has been changed to describe a 4.8 acre permissible place of use with a limit of 2 acres irrigation. In addition there are two other Domestic rights associated with the place of use. Right 36-15221 is an enlargement right of 36-2704 from one of the points of diversion from Niagara Springs for the addition of another home with no additional rate or volume. No changes are proposed for this right (36-15221). Right 36-8761 is a ground water right that includes the same place of use for domestic purposes as rights 36-2704, and 36-15221 plus the addition of government lot 11, 09S 11E sec 11. This right, (36-8761) is limited to 13,000 gpd per home (5 homes) and 2500 gpd for the office and restroom facility. This right appears to replace the in home use of the surface water under the above rights with ground water

- **Authority to File:**  
Applicant is listed as current owner on IDWR record for right 36-2704. The application also includes a copy of a warranty deed showing that the applicant owns the proposed place of use.
- **Water Right Validity:**  
This right was decreed in 2002 and according to water district records this water right has been delivered for the past several years and current aerial photography indicates water usage.
- **Injury to Other Water Rights:**  
None anticipated.
- **Enlargement of Use:**  
None anticipated.
- **Local Public Interest:**  
Application was subject to public notice and protest and no protest were received.
- **Beneficial Use/Conservation of Water Resources:**  
Proposed uses are recognized as beneficial uses of water.

**Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.**

## Yenter, Cindy

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**From:** Baxter, Garrick  
**Sent:** Wednesday, November 28, 2012 10:41 AM  
**To:** Yenter, Cindy  
**Subject:** RE: legal question, Niagara Springs

Sometimes the agent forgot to put it into the database. Should have been caught when partial decree was issued but must have slipped through the cracks. Yes, you can add it to the database sense it has been decreed.

---

**From:** Yenter, Cindy  
**Sent:** Wednesday, November 28, 2012 10:17 AM  
**To:** Baxter, Garrick  
**Subject:** RE: legal question, Niagara Springs

Yup, that's the one. Why didn't that language get rolled over into the water right record? Can we add it now?

---

**From:** Baxter, Garrick  
**Sent:** Tuesday, November 27, 2012 8:18 AM  
**To:** Yenter, Cindy  
**Subject:** RE: legal question, Niagara Springs

Cindy,  
Take a look at the on-line partial decree. I think there is an existing condition takes care of this issue. Let me know if I'm missing something.  
Thanks,  
Garrick

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**From:** Yenter, Cindy  
**Sent:** Monday, November 26, 2012 11:34 AM  
**To:** Baxter, Garrick  
**Subject:** RE: legal question, Niagara Springs

Have you had the opportunity to think about this? We have a pending transfer which will be ready for approval sometime this week.

---

**From:** Baxter, Garrick  
**Sent:** Friday, November 16, 2012 1:32 PM  
**To:** Yenter, Cindy  
**Subject:** RE: legal question, Niagara Springs

Can you send me a copy of the Niagara Agreement?

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**From:** Yenter, Cindy  
**Sent:** Friday, November 16, 2012 12:25 PM

**To:** Baxter, Garrick  
**Cc:** Keen, Shelley; Merritt, Allen  
**Subject:** legal question, Niagara Springs

Garrick – we are currently processing a water right transfer for the IPCO fish propagation right at Niagara Springs (36-2704) to add a pod. This right along with all the others diverting from Niagara Springs are subject to delivery according to terms of the Niagara Agreement. However this right and I suspect most of the others don't even reference the Agreement or any of the stipulated terms of reduced allocation, stepped diversion schedules, etc that I have been administering for 10+ years.

While we have that transfer open, we can add appropriate conditions of use. Would it be a good idea to add a condition to this right which at least acknowledges the existence of a private delivery agreement? We have added conditions which state that use of a certain right may be subject to a private agreement. I was thinking of something along the lines of "Use, delivery, and administration of this right is subject to terms of the Niagara Springs Agreement."

## RECOMMENDATION OF WATERMASTER

Application No: 77695  
Water Right No: 36-2704  
Applicant Name: Idaho Power

Watermaster's Recommendation:

- a)  I do not oppose approval of this application
- b)  I do not oppose approval of this application if it is conditioned as follows:

Standard water district/watermaster language

Measurement conditions 213, 214 (existing devices)

"Right no. 36-15221 is also diverted from the northernmost of the three points of diversion (aka Niagara Utility Line)"

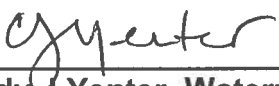
"Diversion and use of this right is subject to the terms of the Niagara Agreement."

- c)  I oppose approval of this application(s) for the following reasons:
- d)  Additional comment:

Measurement plan has been received and approved.

**Dated: November 23, 2012**

**Water District 130**

  
\_\_\_\_\_  
**Cindy J Yenter, Watermaster**

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2002 OCT 18 AM 10 49

In Re SRBA )  
PARTIAL DECREE PURSUANT TO  
) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
)  
Water Right 36-02704

NAME AND ADDRESS: IDAHO POWER COMPANY  
P.O. BOX 70  
BOISE, ID 83707-0070

SOURCE: NIAGARA SPRINGS TRIBUTARY: SNAKE RIVER

QUANTITY: 120.00 CFS  
48180.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-15221 IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 120 CFS AND A TOTAL COMBINED ANNUAL  
DIVERSION VOLUME OF 48,180 AF.

PRIORITY DATE: 01/31/1966

POINT OF DIVERSION: T09S R15E S10 LOT 1 (NENENE) Within Gooding County  
LOT 1 (SENENE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.04 CFS 8.00 AFY
	Domestic	01-01 TO 12-31	0.04 CFS 1.80 AFY
	Fire Protection	01-01 TO 12-31	120.00 CFS 48180.00 AFY
	Fish Propagation	01-01 TO 12-31	120.00 CFS 48180.00 AFY

PLACE OF USE:

Irrigation	T09S R15E S10 LOT 9 (SENE) 2.0 2.0 Acres Total	Within Gooding County
Fish Propagation	T09S R15E S10 LOT 1 (NENE)	Within Gooding County LOT 9 (SENE)
Domestic	T09S R15E S10 LOT 1 (NENE)	Within Gooding County LOT 9 (SENE)
Fire Protection	T09S R15E S10 LOT 1 (NENE)	Within Gooding County LOT 9 (SENE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

USE OF THIS WATER RIGHT SHALL BE SUBJECT TO THE TERMS AND  
CONDITIONS OF THE "NIAGARA SPRINGS AGREEMENT," DATED SEPTEMBER  
30, 1993, AND THE "AMENDMENT TO NIAGARA SPRINGS AGREEMENT,"  
DATED JULY 24, 2002.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

ADD THIS  
CONDITION  
P1Z!

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



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Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

**TRIBUNE PUBLISHING COMPANY, INC**  
 The Lewiston Tribune  
 505 C St., P.O.Box 957  
 Lewiston, Idaho 83501  
 (208) 743-9411

Date: 11/15/2012 INVOICE NO. 70704  
 Account No. 446620  
 Description 70704 NOTICE OF  
 Times 2 Lines 71  
 Tab. lines  
 \$ 101.18  
 PO# NO. 77695

Pg. 1

**LEGAL ADVERTISING  
 INVOICE**

Sold To: DEPT OF WATER RESOURCES  
 1341 FILLMORE STREET, SUITE 200  
 TWIN FALLS ID 83301

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month  
 Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

**RECEIVED**

NOV 21 2012

DEPT. OF WATER RESOURCES  
 SOUTHERN REGION

70704  
**NOTICE OF PROPOSED  
 CHANGE OF WATER  
 RIGHT**  
 TRANSFER NO. 77695  
 IDAHO POWER CO, C/O  
 JON BOWLING, PO BOX  
 70, BOISE, ID 83707 has  
 filed Application No. 77695  
 for changes to the following  
 water rights within GOOD-  
 ING County(s): Right No(s).  
 36-2704; to see a full descrip-  
 tion of these rights and the  
 proposed transfer, please see  
[www.idwr.idaho.gov/apps/  
 ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp).  
 The purpose of the transfer  
 is to change a portion of the  
 above rights as follows: Ap-  
 plication proposes changing  
 authorized point of diversion  
 and place of use under an  
 existing water right for 120  
 cfs from Niagara Springs for  
 fish propagation, irrigation,  
 domestic and fire protection  
 uses associated with the Ida-  
 ho Power Steelhead Hatch-  
 ery. This hatchery is located  
 approximately 7 miles south  
 and 1.5 miles east of Wen-  
 dell. The proposed changes  
 include adding an additional  
 point of diversion from the  
 Niagara Springs complex  
 and describing actual places  
 of use for domestic, irriga-  
 tion and fire protection uses.  
 The irrigation place of use  
 has been changed to describe  
 a 4.8 acre permissible place  
 of use with a limit of 2 acres  
 irrigation.

**AFFIDAVIT OF PUBLICATION**

Karen J. Lewis , being duly sworn, deposes and  
 says, I am the Legal Clerk of the Tribune  
 Publishing Company, a corporation organized and existing  
 under and by virtue of the laws of the State of Idaho  
 and under and by virtue of the laws of the State of Washington,  
 publishers of the Lewiston Tribune, a news-  
 paper of general circulation published at Lewiston, Nez Perce  
 County, Idaho; That the said Lewiston Tribune is  
 an established newspaper and has been published regularly  
 and issued regularly at least once a day for more than 105  
 consecutive years next immediately preceding the first  
 publication of this notice, and has been so published  
 uninterrupted for said period; that the 70704 NOTICE OF  
 attached hereto and which is made a part of this affidavit  
 was published in the said Lewiston Tribune,  
2 time(s). Publication being on  
11/08 , or once a ~~Week~~  
 for 2 consecutive ~~Week~~  
 the first publication thereof being on the 11/08/2012 ,  
 and the last publication thereof being on the 11/15/2012 ,  
 and said 70704 NOTICE OF was so published in the  
 regular and entire issue of said newspaper and was not in a  
 supplement thereof and was so published in every issue and  
 number of the said paper, during the period and times of  
 publication as set forth above.

Karen J. Lewis

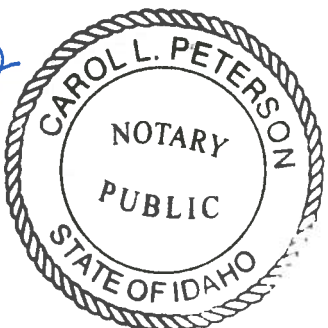
State of Idaho  
 S.S.  
 County of Nez Perce

On this 19th day of November in the year  
 of 2012 , before me, a Notary Public, personally  
 appeared Karen J. Lewis , 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.

Carol Peterson  
 Notary Public in and for the State of Idaho,  
 residing at Lewiston therein  
 Commission Expires 9-1-2017

See reverse side for  
 remainder of ad.

✓ DE  
 DM 11/28/2012



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 November 26, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director  
Published in the Times News,  
Idaho Statesman, Post Register  
& Lewiston Tribune on  
November 8th & 15th, 2012

✓ ok SM 11/28/2012



Proof of Publication  
The Post Register

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Pg. 1

NOV 19 2012

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

State of Idaho  
Bonneville County:

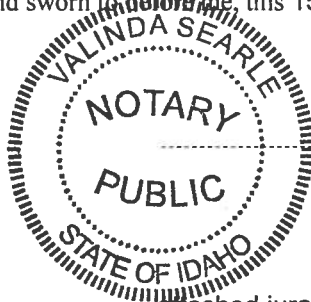
I, ~~Hilary Witt~~ or Staci Dockery, first being duly sworn, depose and say: That I am the ~~Classifieds Manager~~ or Legal Notice Representative of the Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published Tuesday through Sunday at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880, and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidations up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register under this ad number: 515918, for 2 consecutive (days) weeks, between 11/08/2012 and 11/15/2012,

and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

*Staci Dockery*

Subscribed and sworn to before me, this 15 day of November 2012



*Valinda Searle*  
Notary Public

My Commission expires: 11/10/2015  
11-10-2017

attached jurat

STATE OF IDAHO

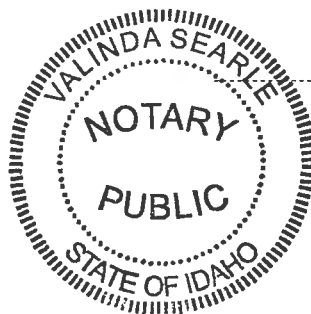
ss.

COUNTY OF BONNEVILLE

Subscribed and sworn to before me, this 15 day of November 2012, before me, the undersigned, a Notary public for said state, personally appeared ~~Hilary Witt~~ or Staci Dockery, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year in this certificate first above written.

✓ ok  
DM 11-20-2012



*Valinda Searle*  
Notary Public for The Post Company  
Residing at: Idaho Falls  
My Commission expires: 11/10/2015

11-10-2017

**NOTICE OF PROPOSED CHANGE  
OF WATER RIGHT  
TRANSFER NO. 77695**

IDAHO POWER CO, C/O JON BOWLING, PO BOX 70, BOISE, ID 83707 has filed Application No. 77695 for changes to the following water rights within GOODING County(s): Right No(s). 36-2704; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://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 changing authorized point of diversion and place of use under an existing water right for 120 cfs from Niagara Springs for fish propagation, irrigation, domestic and fire protection uses associated with the Idaho Power Steelhead Hatchery. This hatchery is located approximately 7 miles south and 1.5 miles east of Wendell. The proposed changes include adding an additional point of diversion from the Niagara Springs complex and describing actual places of use for domestic, irrigation and fire protection uses. The irrigation place of use has been changed to describe a 4.8 acre permissible place of use with a limit of 2 acres irrigation.

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 November 26, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published in the Times News, Idaho Statesman, Post Register & Lewiston Tribune on November 8th & 15th, 2012  
Published: November 8 and 15, 2012 (515918)

✓ ok DM 11/20/2012

# Idaho Statesman

The Newspaper of the Treasure Valley  
IDAHOSTATESMAN.COM

PO Box 40, Boise, ID 83707-0040

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NOV 16 2012

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

## LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
100632	0000621346	LEGAL NOTICE	No. 77695	\$101.93	1	57

Attention: Denise Maline

IDAHO DEPT WATER RESOURCE  
1341 FILLMORE ST STE 200  
TWIN FALLS ID 83301

### LEGAL NOTICE NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 77695

IDAHO POWER CO, C/O JON BOWLING, PO BOX 70, BOISE, ID 83707 has filed Application No. 77695 for changes to the following water rights within GOODING County(s): Right No(s). 36-2704; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://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 changing authorized point of diversion and place of use under an existing water right for 120 cfs from Niagara Springs for fish propagation, irrigation, domestic and fire protection uses associated with the Idaho Power Steelhead Hatchery. This hatchery is located approximately 7 miles south and 1.5 miles east of Wendell. The proposed changes include adding an additional point of diversion from the Niagara Springs complex and describing actual places of use for domestic, irrigation and fire protection uses. The irrigation place of use has been changed to describe a 4.8 acre permissible place of use with a limit of 2 acres irrigation.

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 November 26, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Pub. Nov. 8, 15, 2012

0000621346-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 11/08/2012

Ending issue of: 11/15/2012

*Janice Hildreth*  
(Legals Clerk)

STATE OF IDAHO )

.SS

COUNTY OF ADA )

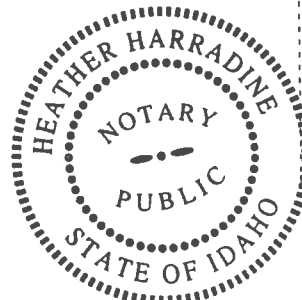
On this 15 day of November in the year of 2012 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

*Heather Harradine*

Notary Public for Idaho  
Residing at: Boise, Idaho

My Commission expires:

2/08/2014



✓ OK SM 11/20/2012

RECEIVED

NOV 16 2012

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 8th day of November, 2012 and ending with the issue dated 15th 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 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

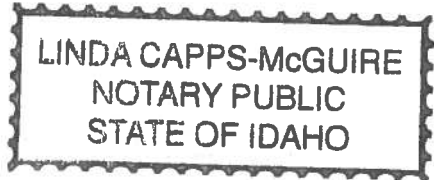
STATE OF IDAHO  
COUNTY OF TWIN FALLS

On this 15th day of November, 2012, 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  
AM 11-20-2012

RECEIVED  
NOV 8 2012  
DEPARTMENT OF WATER RESOURCES  
SOUTHERN REGION

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 78127**

**IDAHO WATER CO LLC**, 1135 VALLEY RD S, EDEN, ID 83325 has filed Application No. 78127 for changes to the following water rights within TWIN FALLS County(s): Right No(s). 47-8251, 47-17571, 47-7287, 47-14285. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a 25.8 acre (0.30 cfs & 48.2 afa) portion of a groundwater irrigation right from a farm located approximately 14.5 miles south and 1.0 mile west of Rogerson to stockwater and commercial uses associated with a dairy facility located approximately 1.4-1.7 miles south and 5.2-5.6 miles west of Buhl. The application also proposes to modify the authorized place of use of the existing domestic and stockwater right (0.11 cfs & 16.9 afa) at the site of the dairy facility to reflect the entire proposed site of the dairy facility. Two existing wells at the dairy facility will be used to divert up to a total of 0.41 cfs and 65.1 afa of water.

✓

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 77695**

**IDAHO POWER CO**, C/O JON BOWLING, PO BOX 70, BOISE, ID 83707 has filed Application No. 77695 for changes to the following water rights within GOODING County(s): Right No(s). 36-2704. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing authorized point of diversion and place of use under an existing water right for 120 cfs from Niagara Springs for fish propagation, irrigation, domestic and fire protection uses associated with the Idaho Power Steelhead Hatchery. This hatchery is located approximately 7 miles south and 1.5 miles east of Wendell. The proposed changes include adding an additional point of diversion from the Niagara Springs complex and describing actual places of use for domestic, irrigation and fire protection uses. The irrigation place of use has been changed to describe a 4.8 acre permissible place of use with a limit of 2 acres irrigation.

✓

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](http://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 November 26, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
PUBLISH: November 8th & 15th, 2012

✓ OK JM 11-20-2012

RECEIVED  
NOV 15 2012  
DEPARTMENT OF WATER RESOURCES  
SOUTHERN REGION

**Legal Notice ( proof ) received from Post Register on 11/7/2012**

**NOTICE OF PROPOSED CHANGE  
OF WATER RIGHT  
TRANSFER NO. 77695**

IDAHO POWER CO, C/O JON BOWLING, PO BOX 70, BOISE, ID 83707 has filed Application No. 77695 for changes to the following water rights within GOODING County(s): Right No(s). 36-2704; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://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 changing authorized point of diversion and place of use under an existing water right for 120 cfs from Niagara Springs for fish propagation, irrigation, domestic and fire protection uses associated with the Idaho Power Steelhead Hatchery. This hatchery is located approximately 7 miles south and 1.5 miles east of Wendell. The proposed changes include adding an additional point of diversion from the Niagara Springs complex and describing actual places of use for domestic, irrigation and fire protection uses. The irrigation place of use has been changed to describe a 4.8 acre permissible place of use with a limit of 2 acres irrigation.

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GARY SPACKMAN, Director

Published in the Times News, Idaho Statesman, Post Register & Lewiston Tribune on November 8th & 15th, 2012

Published: November 8 and 15, 2012 (515918)

✓ ok  
JM 11/7/2012

E-mail sent to Post Register 11/7/2012.