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

November 29, 2012

MVCP LLC
474 E 550 S
BURLEY ID 83318

KENT SEARLE FAMILY TRUST
476 E 600 S
BURLEY ID 83318

CLOYD R SEARLE FAMILY TRUST
474 E 550 S
BURLEY ID 83318

KELLY SEARLE FAMILY TRUST
739 S 50 W
BURLEY ID 83318

CLIFFORD SEARLE FAMILY TRUST
500 E 500 S
BURLEY ID 83318

CRAIG SEARLE FAMILY TRUST
522 E 600 S
BURLEY ID 83318

RAYMOND C SEARLE
SHAROL SEARLE
655 S 650 E
BURLEY ID 83318

RE: Transfer No.: 77712
Water Right No(s).: 45-14412 45-13981 45-13904 45-7004 45-7186A
45-13982 45-2383 45-7118 45-7125 45-7317
45-14413 45-14414 45-14415 45-14416 45-14417
45-14418 45-690 45-691

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.

A portion of water right 45-13904 was leased to the Water Supply Bank (bank) on June 20, 2011. In addition, a portion of water right(s) 45-7317, 45-13981 & 45-13982 were leased to the Water Supply Bank (bank) on June 27, 2011. To date, part of the above referenced rights remain leased to the bank as follows: Right 45-7317 appurtenant to 2.21 cubic feet per second (cfs) and 154 acres; Right 45-13981 appurtenant to 1.74 cubic feet per second (cfs) and 104.1 acres; Right 45-13982 appurtenant to 0.31 cubic feet per second (cfs) and 49.9 acres, all within Sections 26 and 35, T11S, R23E; and Sections 28 and 30, 11S, R24E. In accordance with the bank lease acceptance, the lessor/current right holder (right holder) may not use the right(s) while it is in the bank, even if the right(s) is not rented from the bank. The portion of rights 45-7317, 45-13981 & 45-13982 will remain in the bank until December 31, 2014, unless the right(s) are released earlier by the Idaho Water Resource Board or upon request by the right holder. The portion of right 45-13904 will remain in the bank until December 31, 2015, unless the right(s) is released earlier by the Idaho Water Resource Board or upon request by the right holder. To reduce the term of the lease, the right holder must submit a written request to the department. The department will verify if the right is rented or available for release, and notify the right holder of the release date.

If you have any questions, please contact me at 208-736-3033.

Sincerely,

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77712
WATER RIGHTS NOS. 45-14412 45-13981 45-13904 45-7004 45-7186A
45-13982 45-2383 45-7118 45-7125 45-7317
45-14413 45-14414 45-14415 45-14416 45-14417
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BURLEY ID 83318

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

Denise Maline

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.