

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78168

This is to certify that: **CHRIS DRAKOS**
 PO BOX 793
 BLACKFOOT ID 83221
 (208) 678-2688

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>
45-2601	WR/Decreed	01/21/1960	3.47 cfs	1686.3 af	N/A	639.0	GROUND WATER
45-2641	WR/Decreed	02/24/1961	1.77 cfs	863.7 af	N/A	639.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

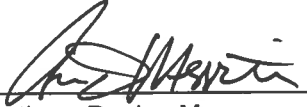
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
45-2601	NO	NO	NO	YES	NO	NO
45-2641	NO	NO	NO	YES	NO	NO

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>
45-2601	45-2601	3.47 cfs	1686.3 af	N/A	639.0		N/A	N/A	N/A	N/A
45-2641	45-2641	1.77 cfs	863.7 af	N/A	639.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		5.24 cfs	2550.0 af	N/A	639.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 13th day of November, 20 12


 Southern Region Manager

SUPPORT DATA

IN FILE # 45-2601

WATER RIGHT NO. 45-2601
As Modified by Transfer No. 78168

In accordance with the approval of Transfer No. 78168, Water Right No. 45-2601 is now described as follows.

Right Holder: CHRIS DRAKOS
PO BOX 793
BLACKFOOT ID 83221

Priority Date: January 21, 1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	3.47 CFS	1,686.3 AF
			3.47 CFS	1,686.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER (Lt 4) NWNWNW Sec. 5 Twp 12S Rge 23E CASSIA County

GROUND WATER SWSWSW Sec. 5 Twp 12S Rge 23E CASSIA County

GROUND WATER SWSWSW Sec. 5 Twp 12S Rge 23E CASSIA County

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	
12S 23E 5	40.0	40.0	40.0	40.0	41.0	41.0	39.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	39.0	639.0
	L 1	L 2			L 3	L 4											

Total Acres: 639

CONDITIONS OF APPROVAL

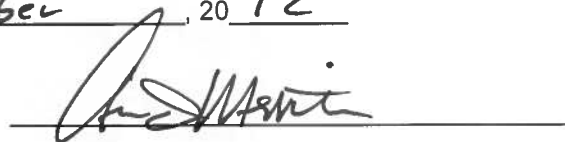
1. The point of diversion located in the NWNWNW, Section 5, Township 12 South, Range 23 East is limited to a maximum diversion rate of 4.0 cfs.
2. Rights 45-2601 and 45-2641 when combined shall not exceed a total diversion rate of 5.24 cfs, a total annual maximum diversion volume of 2550.0 af, and the irrigation of 639.0 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. 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.

WATER RIGHT NO. 45-2601
As Modified by Transfer No. 78168

6. 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.
7. Prior to the diversion and use of water under Transfer approval 78168, 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. 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.
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 13th day of November, 2012



Southern Region Manager

WATER RIGHT NO. 45-2641
As Modified by Transfer No. 78168

In accordance with the approval of Transfer No. 78168, Water Right No. 45-2641 is now described as follows.

Right Holder: CHRIS DRAKOS
PO BOX 793
BLACKFOOT ID 83221

Priority Date: February 24, 1961

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	1.77 CFS	863.7 AF
			1.77 CFS	863.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER (Lt 4) NWNWNW Sec. 5 Twp 12S Rge 23E CASSIA County

GROUND WATER SWSWSW Sec. 5 Twp 12S Rge 23E CASSIA County

GROUND WATER SWSWSW Sec. 5 Twp 12S Rge 23E CASSIA County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
12S	23E	5	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			40.0	40.0	40.0	40.0	41.0	41.0	39.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	39.0	639.0
			L 1	L 2			L 3	L 4											

Total Acres: 639

CONDITIONS OF APPROVAL

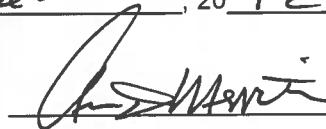
1. The point of diversion located in the NWNWNW, Section 5, Township 12 South, Range 23 East is limited to a maximum diversion rate of 4.0 cfs.
2. Rights 45-2601 and 45-2641 when combined shall not exceed a total diversion rate of 5.24 cfs, a total annual maximum diversion volume of 2550.0 af, and the irrigation of 639.0 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. 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.

WATER RIGHT NO. 45-2641
As Modified by Transfer No. 78168

6. 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.
7. Prior to the diversion and use of water under Transfer approval 78168, 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. 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.
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 13th day of November, 20 12



Southern Region Manager

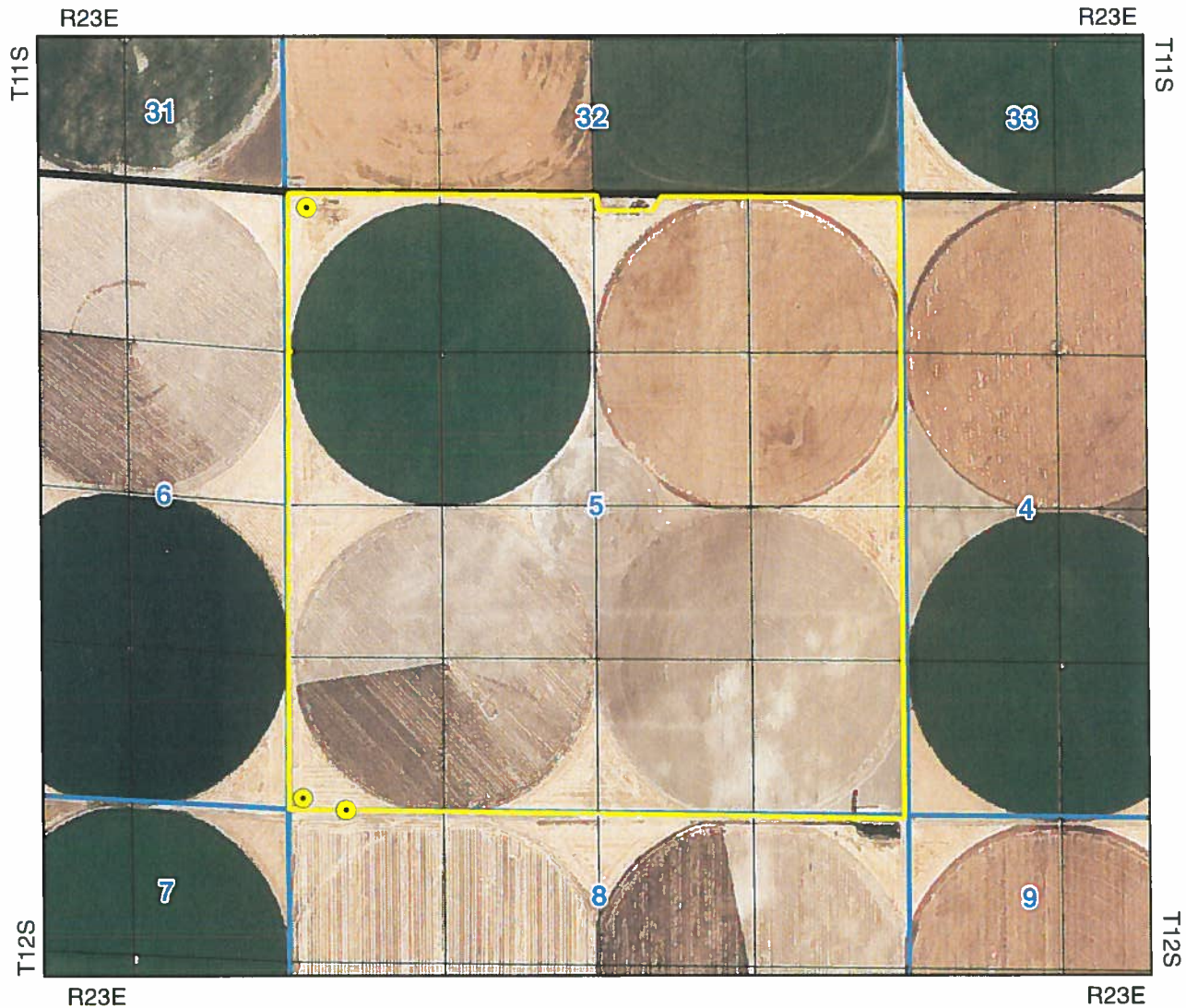
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78168

Rights: 45-2601, 45-2641

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 0.175 0.35 0.7 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

November 13, 2012

CHRIS DRAKOS
PO BOX 793
BLACKFOOT ID 83221

RE: Transfer No.: 78168
Water Right No(s): 45-2601 45-2641

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

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: JOHN M MARSHALL

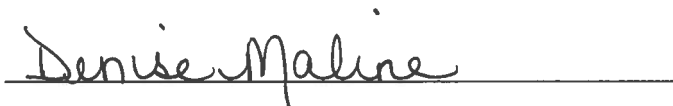
CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 78168
 WATER RIGHTS NOS. 45-2601 45-2641**

**CHRIS DRAKOS
PO BOX 793
BLACKFOOT ID 83221**

**JOHN M MARSHALL
JOHN MARSHALL LAW PLLC
575 W BANNOCK ST
BOISE ID 83702**

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

November 13, 2012

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

RE: **APPROVED** Transfer No(s). 78168 (Chris Drakos)

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 difficulty obtaining or reading the documents, or if you have other questions, please feel free to contact our office.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure

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

RECEIVED
OCT 26 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

I, Ruby Aufderheide, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twin 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 18th day of October, 2012 and ending with the issue dated 25th day of October, 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

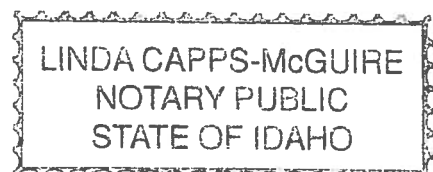
STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 25th day of October, 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 **OVER** →



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

✓ 47-17588

EVELYN L POPPAY

4586 RIVER RD

BUHL, ID 83316

Point of Diversion SENE S9 T09S R14E TWIN FALLS County

Source WASTE WATER Tributary DEEP CREEK

Use: DOMESTIC 03/15 to 11/15 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 9/24/2012

Place Of Use: DOMESTIC

T09S R14E S9 SENE

Application proposes diverting up to 0.02 cfs of wastewater for domestic purposes (irrigation not to exceed 0.5 acres in connection with a home) on property located along River Road approximately 4.0 miles north and 2.6 miles west of the center of Buhl.

✓ NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 74994

ALEX ANHDER and HOLLY ANHDER, 117 N 2100 E, ROBERTS, ID 83444 has filed Application No. 74994 for changes to the following water rights within LINCOLN County(s): Right No(s). 37-4097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the points of diversion (POD) and nature of use for a one-acre portion (0.02 CFS) of wastewater irrigation/stockwater right 37-4097. Right 37-4097 currently provides for up to six acres of irrigation on ground located approximately 1.5 to 1.7 mi. S & 0.8 to 0.9 mi. W of Dietrich. Application proposes to cover wildlife storage uses for an existing pond within the current Place of Use (POU) by drying up approximately one acre of irrigation and change the POD to the location of the impoundment on the wastewater stream.

✓ NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77869

ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 77869 for changes to the following water rights within CASSIA County(s): Right No (s). 43-10384, 43-10380, 43-11251, 43-11252, 43-11253, 43-165A, 43-11254, 43-11255, 43-11256, 43-11269, 43-11270, 43-168A, 43-169C, 43-170A, 43-171A, 43-172A, 43-173A, 43-178J, 43-10086, 43-12941, 43-12944, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002, 43-13003, 43-13078, 43-13080, 43-13082, 43-13084, 43-13086, 43-13088, 43-13090, 43-13092, 43-13094, 43-13096, 43-13060. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 32.03 cfs to be diverted for the irrigation of up to 817 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78130

✓ ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 78130 for changes to the following water rights within CASSIA County(s): Right No (s). 43-13079, 43-13081, 43-13083, 43-13085, 43-13087, 43-13089, 43-13091, 43-13093, 43-13095, 43-13097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 0.18 cfs to be diverted for the irrigation of up to 2.5 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78168

✓ CHRIS DRAKOS, PO BOX 793, BLACKFOOT, ID 83221 has filed Application No. 78168 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2601, 45-2641. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a new point of diversion (new well to be drilled) to two groundwater rights used to irrigate 639 acres on a farm located approximately 11.0 - 12.0 miles north and 4.0 - 5.0 miles east of Oakley. The new well will be located near the northwest corner of the farm and will be limited to a diversion rate of 4.0 cfs. In total, the new well and two existing wells on the farm will be limited to the currently authorized diversion of 5.24 cfs for the irrigation of 639 acres. 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: October 18th & 25th, 2012

✓ OK DM 11/6/2012