

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78012

This is to certify that: DAVID LEON ROBINSON

77 E 200 S
 BURLEY ID 83318
 (701)258-2610

And

MARLENE TRINA ROBINSON
 77 E 200 S
 BURLEY ID 83318
 (701)258-2610

have 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>
45-11725	WR/Decreed	12/31/1929	0.04 cfs	N/A	N/A	N/A	SUMMIT CREEK

Purpose of Transfer (Changes Proposed)

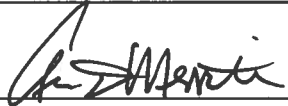
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
45-11725	NO	YES	NO	NO	NO	NO

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>
45-11725	45-11725	0.04 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.04 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 4th day of October, 20 12


 Southern Region Manager

Right Holder: DAVID LEON ROBINSON
77 E 200 S
BURLEY ID 83318

MARLENE TRINA ROBINSON
77 E 200 S
BURLEY ID 83318

Tributary: BASIN CREEK

SUMMIT CREEK NWNW Sec. 22 Twp 14S Rge 23E CASSIA County

[illegible][illegible]

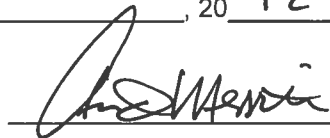
WATER RIGHT NO. 45-11725
As Modified by Transfer No. 78012

CONDITIONS OF APPROVAL

1. This right does not grant any right-of-way or easement across the land of another.
2. The quantity of water decreed for this water right is not a determination of historical beneficial use.
3. The quantity of water under this right shall not exceed 13,000 gallons per day.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
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. 45A.
6. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
7. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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 4th day of October, 20 12



Southern Region Manager

State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

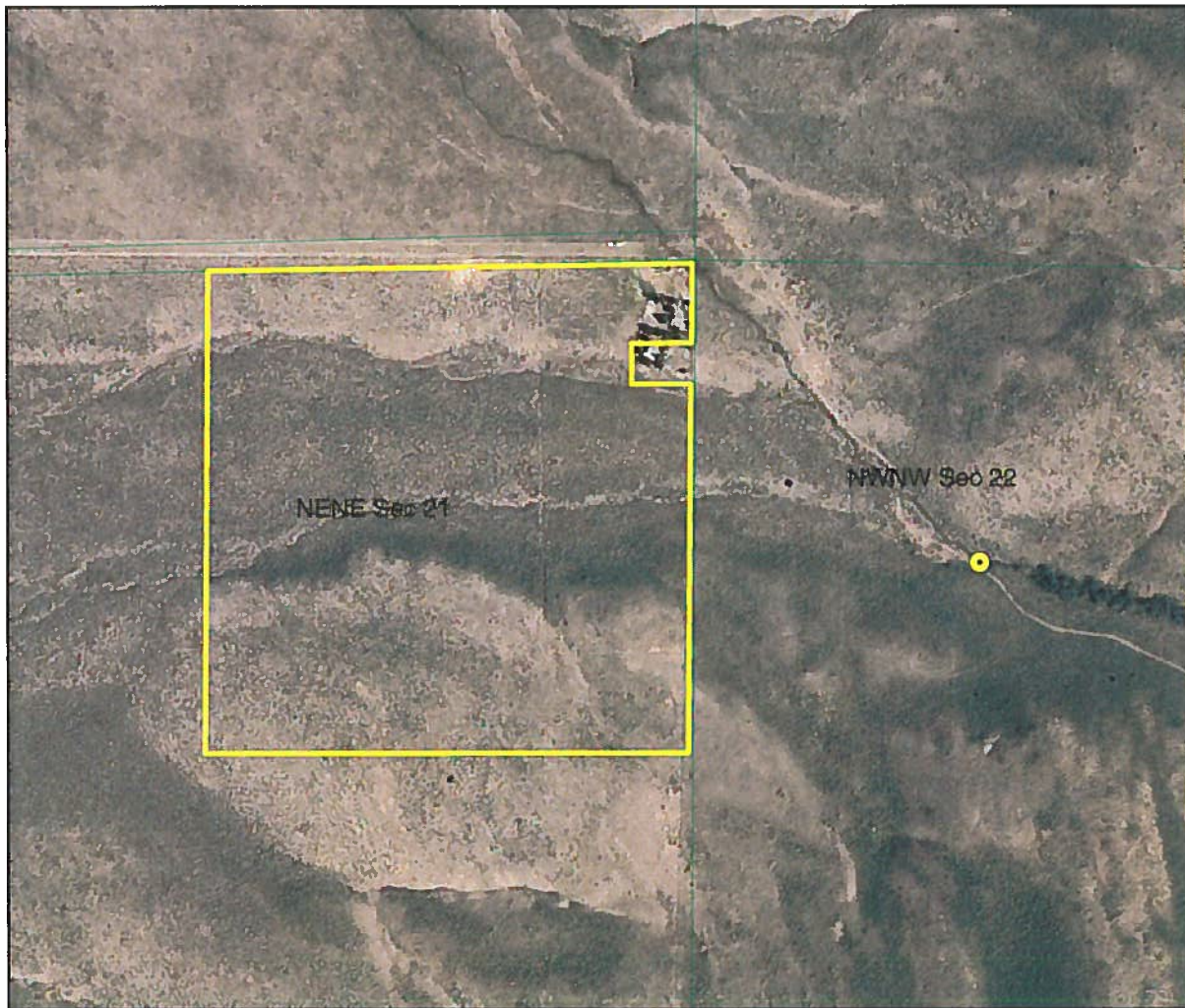
Transfer No. 78012

Rights: 45-11725

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.

R23E

T14S



0 0.05 0.1 0.2 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Taxlots





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

October 5, 2012

DAVID LEON ROBINSON
MARLENE TRINA ROBINSON
77 E 200 S
BURLEY ID 83318

RE: Transfer No.: 78012
Water Right No(s): 45-11725

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 initial "A" and a prominent "M".

Allen Merritt
Southern Region Manager

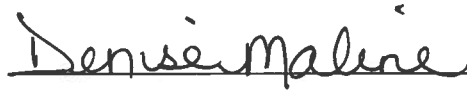
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 78012
 WATER RIGHTS NOS. 45-11725**

**DAVID LEON ROBINSON
MARLENE TRINA ROBINSON
77 E 200 S
BURLEY ID 83318**

A handwritten signature in cursive script, reading "Denise Maline", is written over 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

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 5, 2012

SANDRA HALE WATERMASTER
WATER DISTRICT # 45A
2099 S 50 E
OAKLEY, ID 83346

Re: **APPROVED** Transfer No. 78012 (David Leon & Marlene Trina Robinson)

Dear Ms. Hale:

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: October 04, 2012
To: Transfer 78012
From: amerritt
Re: review and approval

This transfer was processed in the region. It was advertised without protest. The watermaster was provided a copy of the application for review and comment. The watermaster did not respond within the time allowed so it is presumed she does not oppose approval. Prior to approval IDWR received a letter from the FS to delay approval to allow the FS to resolve easement issues. IDWR was advised that the FS was working with the applicant and a delay was no longer needed. It is being approved out of the region as drafted.

Note that the GCDB in the area appears to have shifted and no longer matches the original POU shape nor the DRG nor the taxlot layer nor the deed. For describing the place of use it is being kept in the NENE of Section 21 and the shape is based on the taxlot layer for the deed even though the shape in relation to the GCDB would tend to indicate a portion of the POU is in Section 16 which is likely not correct.

Merritt, Allen

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Monday, October 01, 2012 10:48 AM
To: Merritt, Allen
Cc: Nannenga, Scott -FS
Subject: FW: Robinson Transfer 78012

Allen,

The Forest Service has talked with Mr. Robinson about this transfer involving water right number 45-11725. We are addressing the legal access and occupancy concerns associated with this use and no longer have a need for IDWR to delay processing of Transfer Application 78012.

Thank you for talking with me about it and working with me on it. I appreciate your understanding as some of these apparent long standing situations come to our attention.

If you have any questions about this matter please contact me.

On a related matter, I've lost the number of that other water right, I believe in Basin 72, that I said I'd look into. If you'll resend it I'll see what I can find out about it.

Thank you.

From: Spencer, Steven M -FS
Sent: Monday, September 10, 2012 1:38 PM
To: allen.merritt@idwr.idaho.gov
Subject: Robinson Transfer 78012

Allen,

We see that David and Marlene Robinson have filed a transfer for water right 45-11725. It appears that their new POD is on National Forest System land. They do not have a special use permit to have any water facilities such as a diversion, pipe or ditch on the Forest. There is a some recent history on this matter with them about a pipe they have placed on the forest. They have been told to remove that pipe.

Because Robinson's do not have legal access to NFS land we are requesting that processing their application be delayed until this matter can be resolved in accordance with IDAPA Rule 45.

The Forest Service is sending Robinson's a letter about this situation. You should receive a copy.

If you have any questions about this matter please contact me.

Steve Spencer
USDA Forest Service
1805 Hwy 16 Rm 5
Emmett, ID 83617

Phone: 208-365-7055
Email: sspencer@fs.fed.us

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Merritt, Allen

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Monday, September 10, 2012 1:38 PM
To: Merritt, Allen
Subject: Robinson Transfer 78012

Allen,

We see that David and Marlene Robinson have filed a transfer for water right 45-11725. It appears that their new POD is on National Forest System land. They do not have a special use permit to have any water facilities such as a diversion, pipe or ditch on the Forest. There is a some recent history on this matter with them about a pipe they have placed on the forest. They have been told to remove that pipe.

Because Robinson's do not have legal access to NFS land we are requesting that processing their application be delayed until this matter can be resolved in accordance with IDAPA Rule 45.

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United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Minidoka Ranger District

2306 Hiland Avenue
Burley, ID 83318
208-678-0430
Fax: 208-677-4878

File Code: 2540

Date: September 10, 2012

RECEIVED

SEP 10 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

(Via E-mail)

David & Marlene Robinson
77 East 200 South
Burley, ID 83318

Dear Leon,

We see that you have filed Application For Transfer Of Water Right 78012 for water right 45-11725. It appears that one purpose of the transfer is to change the legal location of the point of diversion from the NENE Sec 21, T14S, R23E, which is on private land to the NWNW Sec 22, T14S, R23E, which is National Forest System (NFS) land.

As you are aware all uses of NFS land including the occupancy and use for constructing and maintaining water facilities must be authorized pursuant to 36 CFR 251. You are not authorized to use NFS land for the purpose of constructing or maintaining any water facilities. On the contrary, you have been contacted previously about the pipe you placed on NFS land and told to remove that pipe. Failure to remove this pipe or conduct other business on NFS land without authorization could be a violation of 36 CFR 261.10(a). I am once again asking the you arrange for the removal of the pipe.

By a copy of this letter we are notifying the Idaho Department of Water Resources that you do not have authorization to occupy and use NFS land for the purpose indicated in your transfer application. We are further requesting that under Idaho Administrative Procedures Act Rule 45 processing this application cease because you do not have legal access to the NFS land necessary for this purpose.

If you have any questions about this matter please contact me or David Ashby at (208) 678-0430.

Sincerely,

SCOTT C. NANNENGA
Minidoka District Ranger

cc: Mark V Dallon



RECEIVED

AUG 31 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Affidavit of Publication

STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

Pg. 2

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 23rd day of August, 2012 and ending with the issue dated 30th day of August, 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

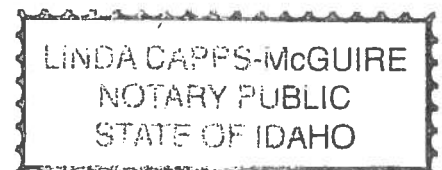
STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 30th day of August, 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
9-4-2012

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78012

✓ DAVID LEON ROBINSON and MARLENE TRINA ROBINSON, 77 E 200 S, BURLEY, ID 83318 has filed Application No. 78012 for changes to the following water rights within CASSIA County (s): Right No(s). 45-11725; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to correct the described point of diversion for a 0.04 cfs domestic and stock water right from Summit Creek by identifying the Summit Creek Ditch diversion as the authorized diversion point. The point of diversion, and the property involved with the application, are located approximately 3.1 miles south and 6.1 miles east of the center of Oakley.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77712

✓ MVCP LLC, 474 E 550 S, BURLEY, ID 83318 has filed Application No. 77712 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2383, 45-7118, 45-7125, 45-7317, 45-13904, 45-13981, 45-13982, 45-690, 45-691, 45-7004, 45-7186A; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add points of diversion (POD) and change the place of use (POU) for nine groundwater irrigation rights: 45-2383 (4.75 CFS), 45-7004 (6.4 CFS), 45-7118 (2.4 CFS), 45-7125 (3.14 CFS), 45-7186A (6.12 CFS), 45-7317 (3.35 CFS), 45-13904 (10.07 CFS), 45-13981 (3.84 CFS), and 45-13982 (0.68 CFS). Applicant also proposes to change the POU for surface rights 45-690 for 3.2 CFS (Lunch Creek, Dayley Creek, & Unnamed Stream) and 45-691 for 0.85 CFS (White Creek). Currently, rights 45-7004, 45-7186A, 45-13904, 45-690 & 45-691 are limited to the irrigation of 1863 acres on a farm located approximately 7.4 to 10.2 mi. S & 3.8 to 7.0 mi. E of Burley. Rights 45-2383, 45-7118, 45-7125, 45-7317, 45-13981, & 45-13982 are currently limited to the irrigation of 1635 acres (26.42 CFS, 6540 AFA) on ground located the following approximate distances from Burley: 7.4 to 8.4 mi. S; 6.9 to 8.2 mi. S & 3.0 to 3.6 mi. E; 6.9 to 7.2 mi. S & 6.5 to 7.5 mi. E; 7.4 to 8.5 mi. S & 5.5 to 7.0 mi. E. Rights 45-2383, 45-7118, 45-7125, 45-7317, 45-13981, & 45-13982 are currently diverted from ten wells located the following approximate distances from Burley: 7.6 mi. S; 7.7 mi. S; 7.8 mi. S; 7.9 mi. S; 8.5 mi. S & 6.5 mi. E; 7.5 mi. S & 5.6 mi. E; 7.0 mi. S & 5.5 mi. E; 7.4 mi. S & 6.5 mi. E; 7.2 mi. S & 6.5 mi. E; 7.1 mi. S & 6.5 mi. E. Five wells, located the following approximate distances from Burley, supply water to the corresponding rights: 8.5 mi. S & 5.5 mi. E (45-7004); 7.5 mi. S & 5.3 mi. E (45-13904); 7.5 mi. S & 5.6 mi. E (45-13904 & 45-7186A); 7.5 mi. S & 5.6 mi. E (45-7004, 45-7186A, & 45-13904); 7.5 mi. S & 6.4 mi. E (45-7004, 45-7028, 45-7151, 45-7358, & 45-7338). Applicant proposes to allow diversion for any of the aforementioned groundwater rights from any of the aforementioned wells along with three additional PODs to create a common well system consisting of 18 total wells. The three additional wells are to be located the following distances from Burley: 7.6 mi. S & 5.7 mi. E (existing, currently inactive well); 7.3 mi. S & 3.5 mi. E (new well); & 7.5 mi. S & 6.3 mi. E (new well). Application proposes to change the POU of all the aforementioned rights to a 4,384-acre permissible place of use (PPU), comprising of ground located the following approximate distances from Burley: 7.4 to 8.4 mi. S; 7.0 to 8.1 mi. S & 3.0 to 3.5 mi. E; and 6.4 to 10.2 mi. S & 3.8 mi. to 7.4 mi. E. Delivery of water to certain areas of the proposed PPU will also include conveyance through the Burley Irrigation District (BID) system. Application also proposes changing the POU for the Stockwater components of rights 45-690 & 45-691 to the aforementioned proposed PPU. In total up to 49.01 CFS will be diverted from 18 wells and 4.0 CFS diverted from Lunch Creek, Dayley Creek, White Creek, and an Unnamed Stream for the irrigation of 3,498 acres within a 4,384-acre PPU.

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 September 10, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: August 23 and 30, 2012

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✓ OK DWH

9-4-2012