

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78009

This is to certify that: EAST FORK LAND & CATTLE LLC
C/O HOMER B AND DEBRA B SAYE
17102 S DR
CYPRESS TX 77433
(281)373-5141

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>
72-219A	WR/Decreed	05/01/1919	0.18 cfs	N/A	N/A	6.1	LITTLE WICKIUP 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>
72-219A	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>
72-219A	72-219A	0.18 cfs	N/A	N/A	6.1	N/A	N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.18 cfs	N/A	N/A	6.1	N/A	N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 13th day of August, 2012



Southern Region Manager

WATER RIGHT NO. 72-219A
As Modified by Transfer No. 78009

In accordance with the approval of Transfer No. 78009, Water Right No. 72-219A is now described as follows.

Right Holder: EAST FORK LAND & CATTLE LLC
C/O HOMER B AND DEBRA B SAYE
17102 S DR
CYPRESS TX 77433

Priority Date: May 01, 1919

Source: LITTLE WICKIUP CREEK **Tributary:** EAST FORK SALMON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	0.18 CFS
			0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

LITTLE WICKIUP CREEK SESW Sec. 33 Twp 09N Rge 17E CUSTER County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
09N 17E 33	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	6.1
															3.9	2.2	

Total Acres: 6.1

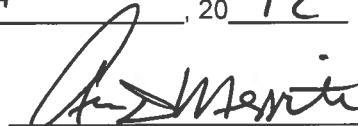
WATER RIGHT NO. 72-219A
As Modified by Transfer No. 78009

CONDITIONS OF APPROVAL

1. 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. 170 & 72D.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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 August, 20 12



Southern Region Manager

State of Idaho
Department of Water Resources

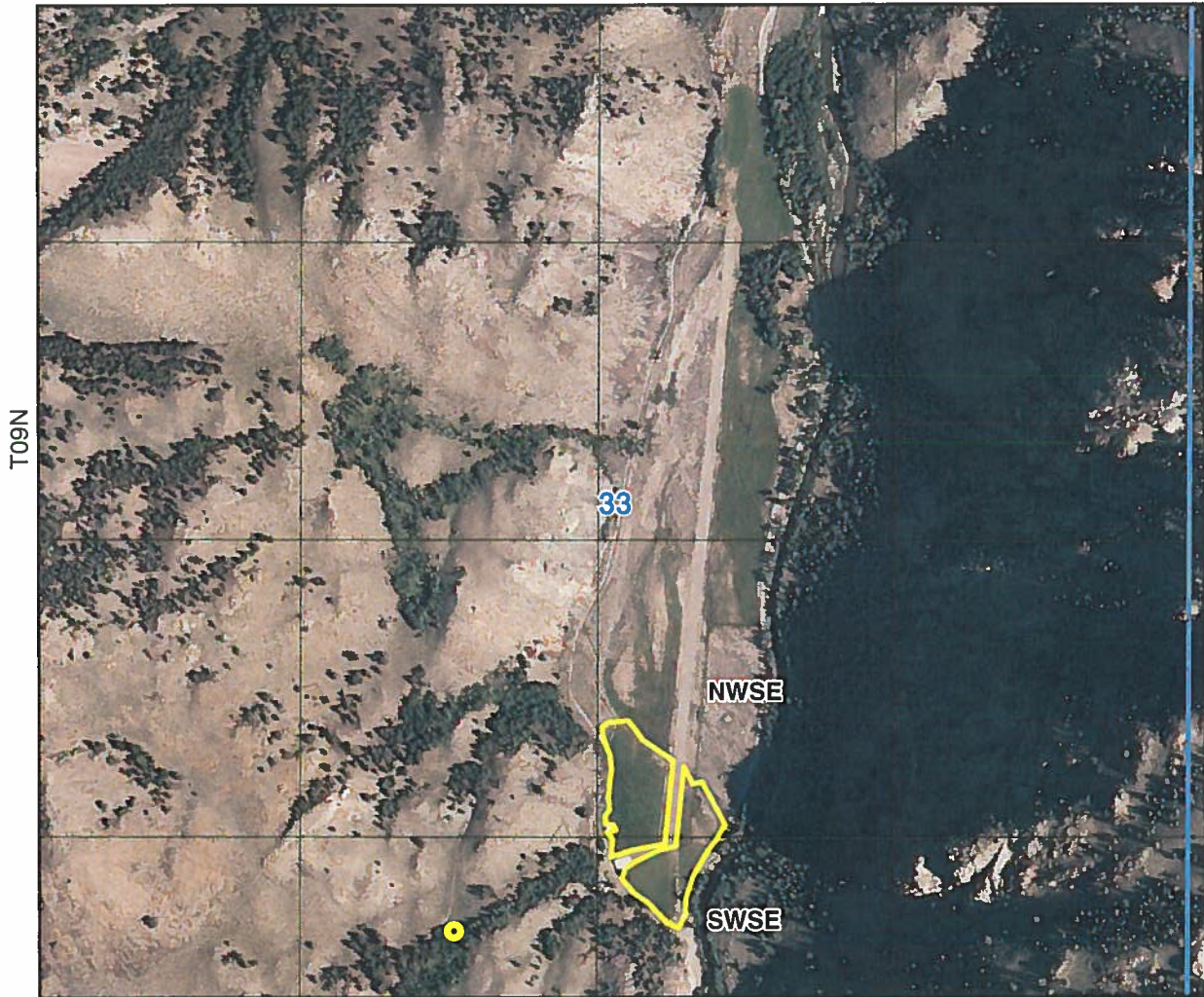
Attachment To Transfer Of Water Right

Transfer No. 78009

Rights: 72-219A

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.

R17E



0 0.1 0.2 0.4 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

August 15, 2012

NICK MILLER
WATER DISTRICT #170
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

Via E-mail

RE: APPROVED Permit No(s). 72-16891 (A.J. & Tonia Mitchell)
RE: APPROVED Transfer No. 78009 (East Fork Land & Cattle LLC)
RE: APPROVED Exchange No. 77809 (East Fork Land & Cattle LLC)

Dear Mr. Miller:

For your information and records, we have enclosed a copy of an APPROVED Application for Permit 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,

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in black ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant

Enclosure



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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 14, 2012

ADRIANNE HALL-MAYDOLE WATERMASTER
WATER DISTRICT # 72D
HC 68 BOX 327
CLAYTON, ID 83227

Re: **APPROVED** Transfer No. 78009 (East Fork Land & Cattle LLC)
APPROVED Exchange No. 77809 (East Fork Land & Cattle LLC)

Dear Ms. Hall-Maydole:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer and APPROVED Application for Exchange within your district.

If you have any questions, please feel free to contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in dark ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant

Enclosure



State of Idaho

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 14, 2012

EAST FORK LAND & CATTLE LLC
C/O HOMER B AND DEBRA B SAYE
17102 S DR
CYPRESS TX 77433

RE: Transfer No.: 78009
Water Right No(s): 72-219A

RE: Exchange No.: 77809
Water Right No(s): 72-219C

Transfer Approval Notice & Exchange of Water 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) and approved Exchange 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)

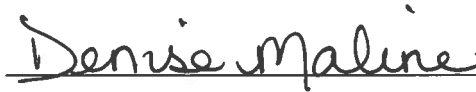
CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL and EXCHANGE OF WATER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 78009
 WATER RIGHTS NOS. 72-219A**

**RE: EXCHANGE NO.: 77809
 WATER RIGHT NOS.: 72-219C**

**EAST FORK LAND & CATTLE LLC
C/O HOMER B AND DEBRA B SAYE
17102 S DR
CYPRESS TX 77433**

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.

AFFIDAVIT OF PUBLICA ON

State of Idaho, County of Custer, ss:

I, Susan Carrigan, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated 7/19 2012 and ending with the issue dated 7/26 2012

Susan Carrigan

STATE OF IDAHO)

COUNTY OF CUSTER)

On this 30th day of July in the year of 2012, before me, a Notary Public,

personally appeared Susan Carrigan 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.

Dina Sue Tappan

Notary Public for Idaho

Residing at Challis, ID

My commission expires: 12-8-14

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 78009 & EXCHANGE NO. 77809

EAST FORK LAND & CATTLE LLC, C/O HOMER B AND DEBRA B SAYE, 17102 S DR, CYPRESS, TX 77433 has filed Application No. 78009 and 77809 for changes to the following water rights within CUSTER County(s): Right No(s). 72-219A and 72-219C; 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 and exchange is to change a portion of the above rights as follows: Application for Transfer 78009 proposes to change the Point of Diversion (POD) for Little Wickiup Creek irrigation right 72-219A (0.18 CFS, 6.1 acres) to the actual location of diversion, approximately 23.4 mi. E & 10.9 mi. S of Stanley. Companion Application for Exchange 77809 proposes to change the POD for right 72-219C, which currently diverts up to 0.85 CFS (23.5 Acres) from the East Fork of the Salmon River, located approximately 23.7 mi E and 11.0 mi S of Stanley, to the same proposed Little Wickiup Creek POD as right 72-219A. Changes are proposed to facilitate increased fish passage in the East Fork of the Salmon River drainage.

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 August 6, 2012. The protestant must also send a copy of the protest to the applicant.

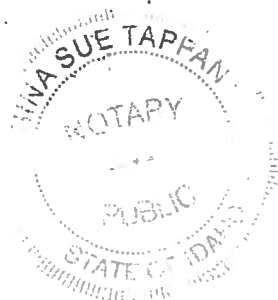
GARY SPACKMAN, Director

Published: July 19 & 26, 2012

RECEIVED

AUG 06 2012

DEPT OF WATER RESOURCES



✓ ok. DM 8/7/2012

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

RECEIVED

JUL 25 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 78009 **Water Right No(s).:** 72-219A

Transfer Applicant's Name: EAST FORK LAND & CATTLE LLC
C/O HOMER & DEBRA SAYE
17102 S. DR
CYPRESS, TX 77433

Watermaster's Recommendation:

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

Dated this 27 day of July , 2012

Water District No. 72D

Adrianne Hall Maydole

Watermaster's Signature

Adrianne Hall Maydole

Printed Name