

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78001

This is to certify that: STATE OF IDAHO
 DEPARTMENT OF TRANSPORTATION
 216 S DATE ST
 SHOSHONE ID 83352
 (208)886-7800

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>
43-2572	WR/Decreed	10/25/1963	0.02 cfs	N/A	N/A	N/A	GROUND WATER
43-12925	WR/Decreed	09/27/1954	2.18 cfs	436 af	N/A	109.0	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>
43-2572	NO	NO	YES	YES	NO	NO
43-12925	YES	YES	YES	YES	YES	YES

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>
43-2572	43-2572	0.02 cfs	4.2 af	N/A	N/A		N/A	N/A	N/A	N/A
43-12925	43-13698	0.2 cfs	38.8 af	8.6	27.5	43-13697	1.98 cfs	396 af	N/A	99.0
COMBINED										
TOTALS		0.22 cfs	43.0 af	8.6	27.5		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 7th day of August, 2012


 Southern Region Manager

SUPPORT DATA

IN FILE # 43-2572

WATER RIGHT NO. 43-2572
As Modified by Transfer No. 78001

In accordance with the approval of Transfer No. 78001, Water Right No. 43-2572 is now described as follows.

Right Holder: STATE OF IDAHO
 DEPARTMENT OF TRANSPORTATION
 216 S DATE ST
 SHOSHONE ID 83352

Priority Date: October 25, 1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	to 12/31	0.02 CFS	4.2 AF
			0.02 CFS	4.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SESW Sec. 34 Twp 10S Rge 26E CASSIA County

GROUND WATER SESW Sec. 34 Twp 10S Rge 26E CASSIA County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S 26E 34									X		X	X					

CONDITIONS OF APPROVAL

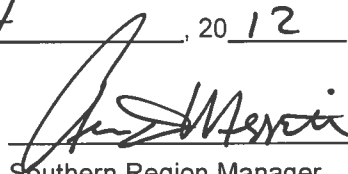
1. Domestic use is for the Cotterell Rest Area and Port of Entry facility.
2. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 43-2572
As Modified by Transfer No. 78001

6. 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 7th day of August, 2012



Southern Region Manager

WATER RIGHT NO. 43-13697
As Modified by Transfer No. 78001

In accordance with the approval of Transfer No. 78001, Water Right No. 43-13697 is now described as follows.

Right Holder: STATE OF IDAHO
 DEPARTMENT OF TRANSPORTATION
 216 S DATE ST
 SHOSHONE ID 83352

Priority Date: September 27, 1954

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	1.98 CFS	396.0 AF
			1.98 CFS	396.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NWSWNW Sec. 25 Twp 11S Rge 26E CASSIA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
11S 26E 25					19.0	12.0	39.0	29.0									99.0

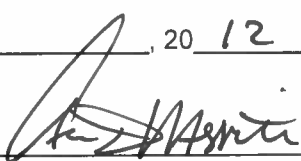
Total Acres: 99

CONDITIONS OF APPROVAL

1. The use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. 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 7th day of August, 20 12


 Southern Region Manager

WATER RIGHT NO. 43-13698
As Modified by Transfer No. 78001

In accordance with the approval of Transfer No. 78001, Water Right No. 43-13698 is now described as follows.

Right Holder: STATE OF IDAHO
 DEPARTMENT OF TRANSPORTATION
 216 S DATE ST
 SHOSHONE ID 83352

Priority Date: September 27, 1954

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	to 12/31	0.20 CFS	4.4 AF
IRRIGATION	04/01	to 10/31	0.17 CFS	34.4 AF
			0.20 CFS	38.8 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SESW Sec. 34 Twp 10S Rge 26E CASSIA County

GROUND WATER SESW Sec. 34 Twp 10S Rge 26E CASSIA County

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	
10S	26E	34									X			X	X				

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	
10S	26E	34									4.5			4.5	13.2				
11S	26E	3			.1		1.5			1.3					.1	1.1		1.2	5.3
							L 3												

Total Acres: 27.5

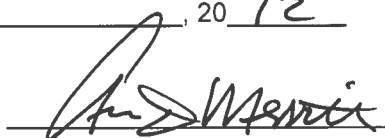
WATER RIGHT NO. 43-13698
As Modified by Transfer No. 78001

CONDITIONS OF APPROVAL

1. Domestic use is for the Cotterell Rest Area and Port of Entry facility.
2. This right is limited to the irrigation of 8.6 acres within the authorized place of use in a single irrigation season.
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. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than June 28, 2002.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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 7th day of August, 20 12


Southern Region Manager

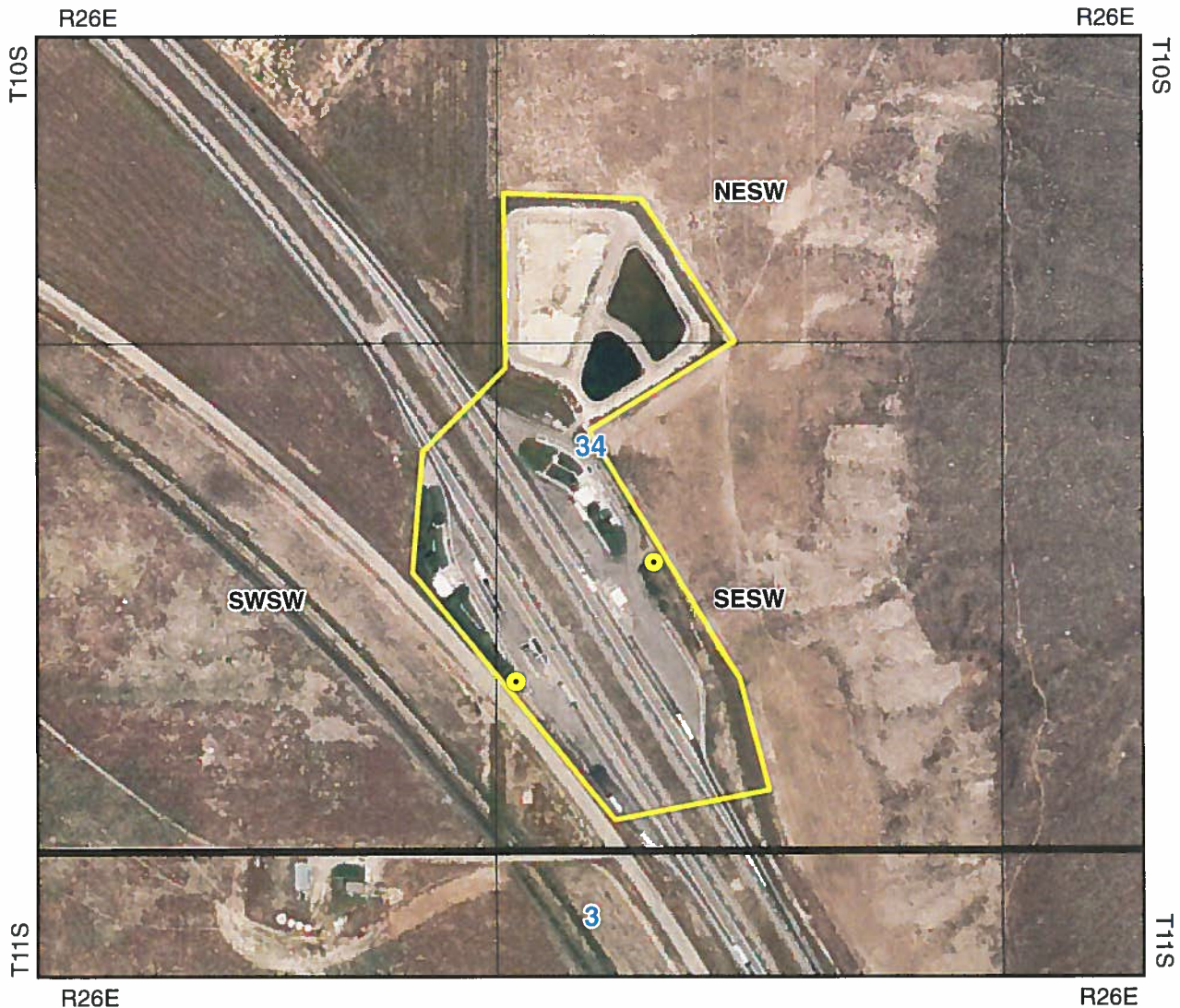
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78001

Rights: 43-2572, 43-13698

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.



0 0.05 0.1 0.2 Miles

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



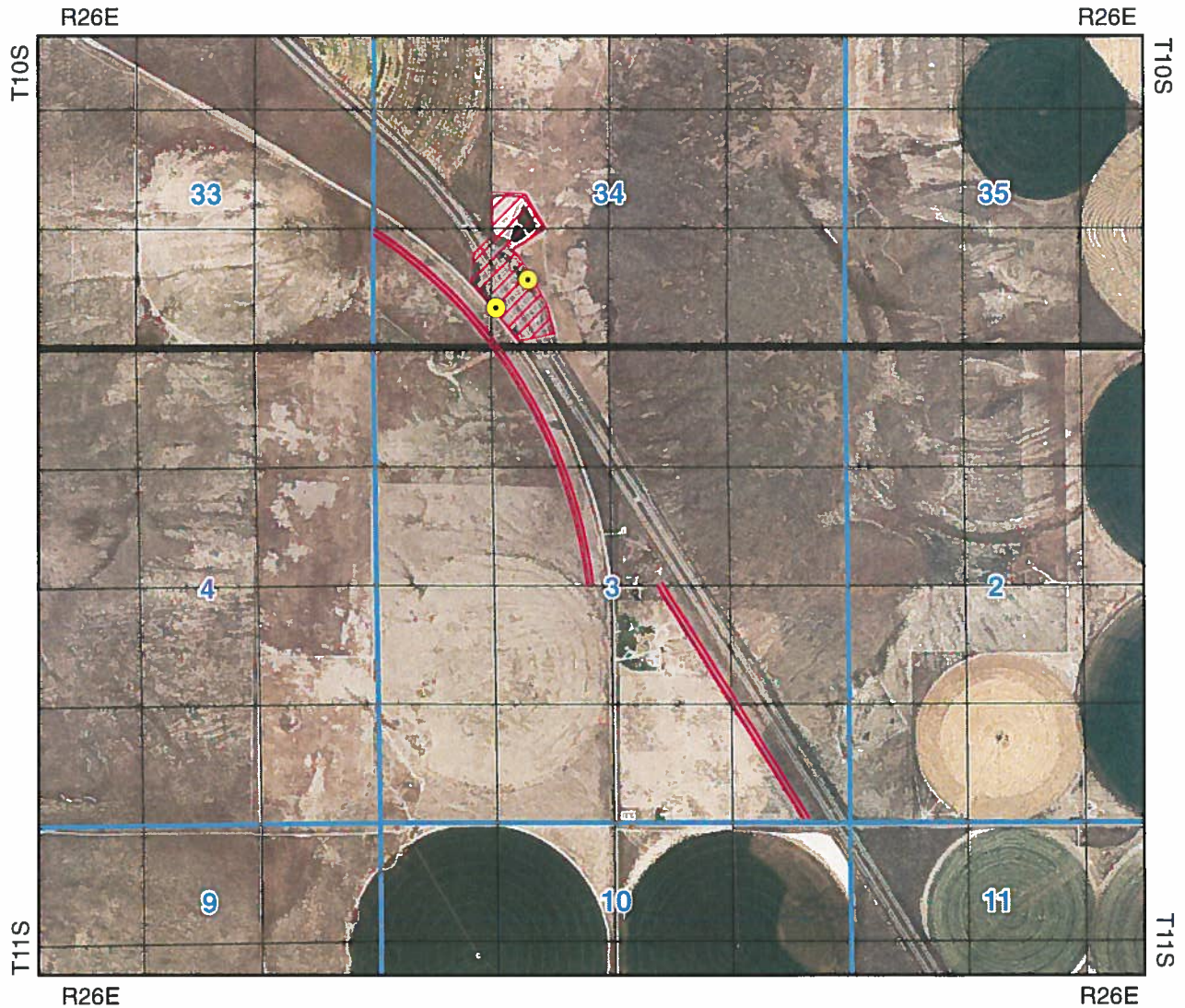
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78001

Rights: 43-13698

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 0.225 0.45 0.9 Miles

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



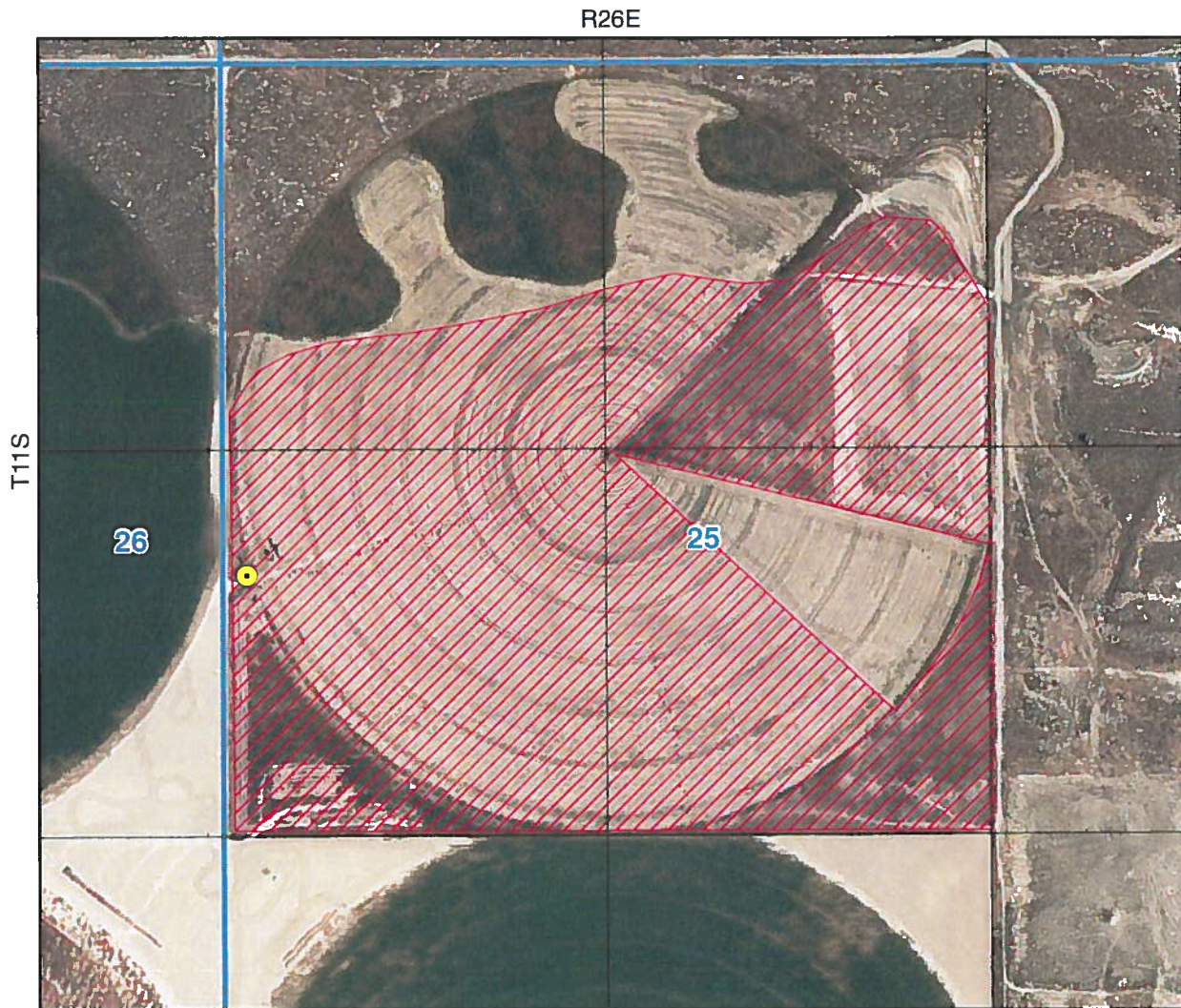
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 78001

Rights: 43-13697

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 0.075 0.15 0.3 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 7, 2012

STATE OF IDAHO
DEPARTMENT OF TRANSPORTATION
216 S DATE ST
SHOSHONE ID 83352

RE: Transfer No.: 78001
Water Right No(s): 43-12925 43-2572

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.

Please also note that the unchanged or remaining portion of right 43-12925 that is now numbered 43-13697 and represented by the enclosed map for 43-13697 does not appear to represent what is actually irrigated by what appears to be the installed irrigation system. It is recommended that this right (43-13697) be transferred to correctly depict or record the actual place of use of where the 99 acres are to be used if irrigation is intended to be continued. Failure to correctly describe the actual place of use may result in a Notice of Violation if irrigation continues.

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)

cc: BROCKWAY ENGINEERING PLLC

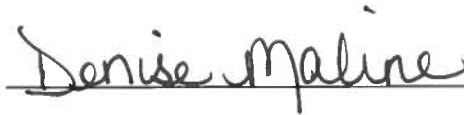
CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 78001
WATER RIGHTS NOS. 43-12925 43-2572**

**STATE OF IDAHO
DEPARTMENT OF TRANSPORTATION
216 S DATE ST
SHOSHONE ID 83352**

**BROCKWAY ENGINEERING PLLC
C/O ZACH LATHAM
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

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

RECEIVED

JUL 13 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 5th day of July, 2012 and ending with the issue dated 12th day of July, 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

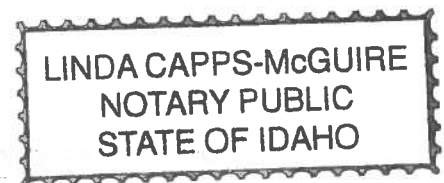
On this 12th day of July, 2012, before me,

a Notary Public, personally appeared Ruby Aufdeheide,
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 commision expires: 5-19-15

✓ OK
DM 7-24-2012



**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78001**

STATE OF IDAHO, DEPARTMENT OF TRANSPORTATION,
216 S DATE ST, SHOSHONE, ID 83352 has filed Application No. 78001 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2572, 43-12925; 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 transferring a 10 acre (0.20 cfs) portion of a groundwater irrigation right from a farm located approximately 8.75 miles north of Malta to provide water for the Cotterell Rest Area and Port of Entry facility located adjacent to Interstate 84 approximately 13.0 miles north and 2.0 miles west of Malta. The transferred right will be diverted from an existing well and a new well to be drilled at the facility to provide additional water for the rest area and port of entry and also allow for the irrigation of landscaping and a "living snow fence" located adjacent to the facility and along Interstate 84. The transfer will also modify the existing water right at the facility to allow for the diversion of water from both the new and existing well and to more accurately reflect the actual locations of use.

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 July 23, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
PUBLISH: July 5th & 12th, 2012

✓ ok DM 7/24/2012