

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77954

This is to certify that: BARBARA J CARNEY And GARY CARNEY

225 N 1250 W
PAUL ID 83347
(208)438-5348

And

POLLY CARNEY And PAUL CARNEY
291 S 2800 E
PAUL ID 83347
(208)438-2400

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>
37-2578	WR/Decreed	08/30/1955	2.74 cfs	850.5 af	N/A	243.0	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>
37-2578	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>
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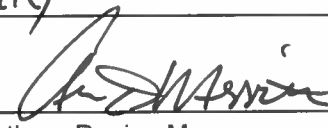
37-2578	37-2578	2.74 cfs	850.5 af	N/A	243.0	N/A	N/A	N/A	N/A	N/A
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COMBINED

TOTALS		2.74 cfs	850.5 af	N/A	243	N/A	N/A	N/A	N/A	N/A
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Detailed Water Right Description(s) attached

Dated this 12th day of July, 20 12


Southern Region Manager

WATER RIGHT NO. 37-2578
As Modified by Transfer No. 77954

In accordance with the approval of Transfer No. 77954, Water Right No. 37-2578 is now described as follows.

Right Holder: BARBARA J CARNEY And GARY CARNEY

225 N 1250 W
 PAUL ID 83347

And

POLLY CARNEY And PAUL CARNEY
 291 S 2800 E
 PAUL ID 83347

Priority Date: August 30, 1955

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/31	2.74 CFS	850.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWSW Sec. 1 Twp 01N Rge 22E BLAINE County

GROUND WATER SESE Sec. 2 Twp 01N Rge 22E BLAINE 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	
01N 22E 1											13.0						13.0
01N 22E 2															24.0	40.0	64.0
01N 22E 11	32.0	40.0			26.0			38.0	17.0								153.0
01N 22E 12						13.0											13.0

Total Acres: 243

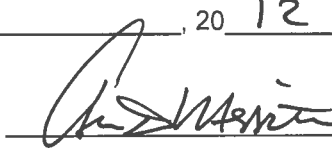
WATER RIGHT NO. 37-2578
As Modified by Transfer No. 77954

CONDITIONS OF APPROVAL

1. Rights 37-758, 37-760, 37-761A, 37-763, 37-764, 37-1163, and 37-2578 when combined shall not exceed the irrigation of 270 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
4. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
5. Prior to the diversion and use of water under Transfer approval 77954, 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.
6. The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
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 12th day of July, 20 12


Southern Region Manager

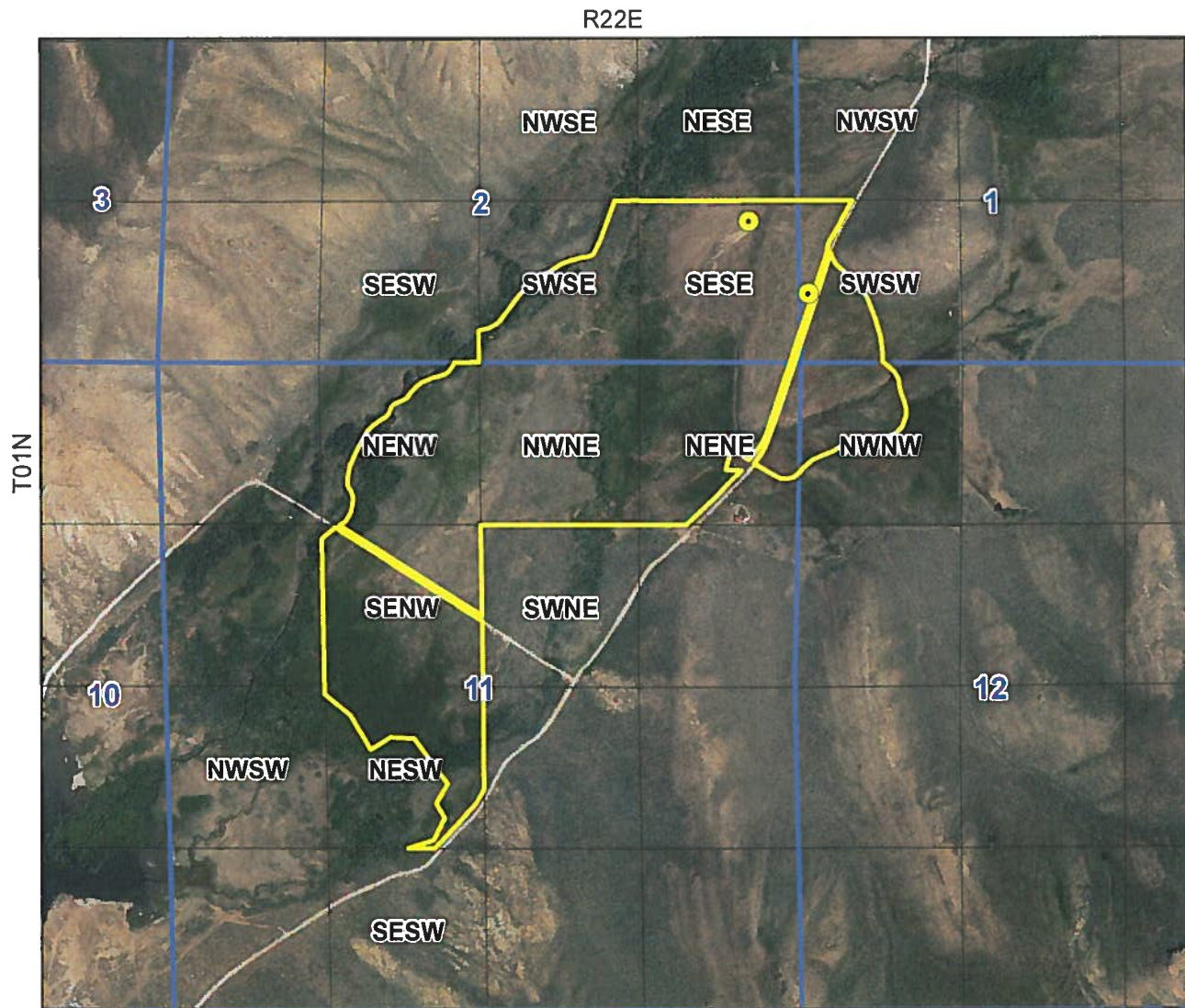
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 77954

Rights: 37-2578

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
Interim Director

July 13, 2012

GARY CARNEY
BARBARA J CARNEY
225 N 1250 W
PAUL ID 83347

PAUL CARNEY
POLLY CARNEY
291 S 2800 E
PAUL ID 83347

RE: Transfer No.: 77954
Water Right No(s): 37-2578

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 distinct "M".

Allen Merritt
Southern Region Manager

Enclosure(s)

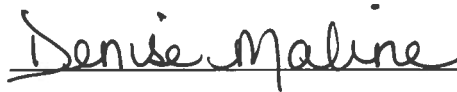
CERTIFICATE OF SERVICE

I hereby certify that on July 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. 77954
WATER RIGHTS NOS. 37-2578**

**GARY CARNEY
BARBARA J CARNEY
225 N 1250 W
PAUL ID 83347**

**PAUL CARNEY
POLLY CARNEY
291 S 2800 E
PAUL ID 83347**

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.

RECEIVED

AFFIDAVIT of PUBLICATION

JUN 28 2012

COPY OF NOTICE

State of Idaho
County of BlainePam MorrisDEPT. OF WATER RESOURCES
SOUTHERN REGION

Pam Morris, being the first duly
sworn, deposes and says that she is the printer (publisher) of the Idaho
Mountain Express, a newspaper published every week in Ketchum, County
of Blaine, State of Idaho; that said newspaper has been continuously and
uninterruptedly published for a period of seventy-eight consecutive weeks
prior the first publication of the annexed notice, and is a newspaper qualified
to publish legal notices as provided by act of the 1919 session of the
legislature of the State of Idaho, known as House Bill 145; that the annexed
advertisement was published once

each week for 2 consecutive issues
in said newspaper proper and not in a supplement; that the date of the first

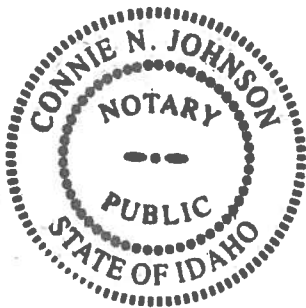
publication of said advertisement was on the 20 day of

June, 20 12, and the date of the last publication was
on the 27 day of June, 20 12

Subscribed and sworn to before me this 27 day of

June, 20 12.

Connie N. Johnson
NOTARY PUBLIC



RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340
COST OF PUBLICATION

Number of Picas per Line 11.5

Number of Lines in Notice 69

Number of Insertions 2

69 Lines tabular at 63.48 9.0 cents/pica

69 Lines straight at 55.55 8.0 cents/pica

69 Subsequent lines at 119.03 7.0 cents/pica

TOTAL COST \$119.03

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

LEGAL NOTICE

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

37-22744

LITA WEST
PO BOX 100
CAREY, ID 83320
Point of Diversion SENENE S19
T01S R21E BLAINE County Source
GROUNDWATER Tributary

Use: DOMESTIC 01/01 to 12/31
0.04 CFS

Use: STOCKWATER 01/01 to 12/31
0.14 CFS

Total Diversion: 0.18 CFS

Date Filed: 5/8/2012

Place Of Use: DOMESTIC &
STOCKWATER

T01S R21E S19 NENE

Application for permit proposes to
divert 0.18 cfs from ground water, for
domestic and stockwater use from an
existing well associated with a home,
located approximately 1.3 miles north
and 2.6 miles west of Carey.

✓ OK DM 7.2.2012

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 77954

✓
BARBARA J CARNEY and GARY CARNEY, 225 N 1250 W, PAUL, ID 83347; and PAUL CARNEY and POLLY CARNEY, 291 S 2800 E, PAUL, ID 83347 has filed Application No. 77954 for changes to the following water rights within BLAINE County(s): Right No(s). 37-2578. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to add a second point of diversion (existing well) to a 2.74 cfs ground water right currently used to irrigate 243 acres on a farm located approximately 2 miles northeast of Fish Creek Reservoir.

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 July 9, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

**PUBLISH:
IDAHO MOUNTAIN EXPRESS
June 20 & 27, 2012**



✓ ok dm
7-2-2012

MEMORANDUM

Date: June 8, 2012
To: Transfer 77954 File
From: Nathan Erickson
Re: Evaluation of Sufficiency of Information Submitted

Transfer proposes to add a second point of diversion (well) to water right 37-2578 located approximately 12 miles northeast of the center of Carey and approximately 2 miles northeast of Fish Creek Reservoir. Owner filed transfer no. 73406 in 2007 which moved the point of diversion for groundwater right 37-2578 into an adjoining 40 acre tract. The original well was intended to be abandoned and was taken off the water right. After the transfer was approved in 2007 and the new well was drilled it was determined that the old well was needed and could be used to supply water for the water right. This new transfer proposes to add the original well back to the water right. There will be no change to the place of use. The well proposed to be added is located 650 feet northwest of the existing well on the water right. It is recommended that this transfer be processed with a public notice and protest period.

- **Authority to File:**
IDWR records list the Applicant as the owner of the right being transferred and the owner of the property covered by the PPU.
- **Water Right Validity:**
The right involved in the transfer was decreed in the SRBA on May 11, 2009. Aerial photography appears to support the use described on the right. Possible forfeiture does not appear to be an issue.
- **Injury to Other Water Rights:**
None anticipated. The proposed point of diversion is 650 feet northwest of the existing well on the water right. The application will be subject to public notice and protest.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. The application will be subject to public notice and protest.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.