

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77949

This is to certify that: HORIZON ORGANIC DAIRY LLC

2577 E 500 S
 PAUL ID 83347
 (208)438-8450

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>
36-8401	WR/License	11/28/1988	0.68 cfs	N/A	N/A	360.0	GROUND WATER
36-2254A	WR/Decreed	03/16/1954	4.36 cfs	N/A	360.0	520.0	GROUND WATER
36-2284	WR/Decreed	05/16/1955	3.06 cfs	N/A	N/A	520.0	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>
36-8401	NO	NO	YES	NO	NO	NO
36-2254A	NO	NO	YES	NO	NO	NO
36-2284	NO	NO	YES	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>
36-8401	36-8401	0.68 cfs	288.6 af	N/A	520.0		N/A	N/A	N/A	N/A
36-2254A	36-2254A	4.36 cfs	1440 af	360.0	520.0		N/A	N/A	N/A	N/A
36-2284	36-2284	3.06 cfs	1493.1 af	N/A	520.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		8.1 cfs	2080 af		520		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 28th day of June, 2012


 Southern Region Manager

SUPPORT DATA

IN FILE # 36-2254A

WATER RIGHT NO. 36-2254A
As Modified by Transfer No. 77949

In accordance with the approval of Transfer No. 77949, Water Right No. 36-2254A is now described as follows.

Right Holder: HORIZON ORGANIC DAIRY LLC
 2577 E 500 S
 PAUL ID 83347

Priority Date: March 16, 1954

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	4.36 CFS	1,440.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWSW Sec. 28 Twp 09S Rge 21E JEROME County

GROUND WATER SENWSE Sec. 28 Twp 09S Rge 21E JEROME 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	
09S	21E	28			19.7	13.5			20.2	21.5	38.5	37.6	34.7	36.9	37.8	37.7	27.0	15.0	340.1
09S	21E	29													22.2	35.7	40.0	26.6	124.5
09S	21E	32	12.6	33.7															46.3
09S	21E	33					.2	8.9											9.1

Total Acres: 520

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.130.
2. This right is limited to the irrigation of 360 acres within the authorized place of use in a single irrigation season.
3. Rights 36-2254A, 36-2284, and 36-8401 when combined shall not exceed a total diversion rate of 8.1 cfs, a total annual maximum diversion volume of 2080 af at the field headgate, and the irrigation of 520 acres.

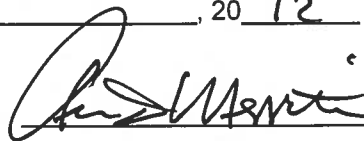
WATER RIGHT NO. 36-2254A
As Modified by Transfer No. 77949

CONDITIONS OF APPROVAL

4. 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.
5. Prior to diversion and use of water under Transfer approval 77949, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion, in accordance with Department specifications.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.
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 28th day of June, 20 12



Southern Region Manager

WATER RIGHT NO. 36-2284
As Modified by Transfer No. 77949

In accordance with the approval of Transfer No. 77949, Water Right No. 36-2284 is now described as follows.

Right Holder: HORIZON ORGANIC DAIRY LLC
 2577 E 500 S
 PAUL ID 83347

Priority Date: May 16, 1955

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	3.06 CFS	1,493.1 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWSW Sec. 28 Twp 09S Rge 21E JEROME County

GROUND WATER SENWSE Sec. 28 Twp 09S Rge 21E JEROME 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	
09S 21E 28			19.7	13.5			20.2	21.5	38.5	37.6	34.7	36.9	37.8	37.7	27.0	15.0	340.1
09S 21E 29													22.2	35.7	40.0	26.6	124.5
09S 21E 32	12.6	33.7															46.3
09S 21E 33					.2	8.9											9.1

Total Acres: 520

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.130.
2. Rights 36-2254A, 36-2284, and 36-8401 when combined shall not exceed a total diversion rate of 8.1 cfs, a total annual maximum diversion volume of 2080 af at the field headgate, and the irrigation of 520 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.

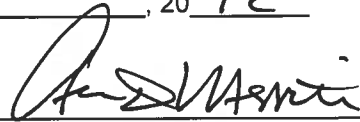
WATER RIGHT NO. 36-2284
As Modified by Transfer No. 77949

CONDITIONS OF APPROVAL

4. Prior to diversion and use of water under Transfer approval 77949, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion, in accordance with Department specifications.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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 28th day of June, 20 12



Southern Region Manager

WATER RIGHT NO. 36-8401
As Modified by Transfer No. 77949

In accordance with the approval of Transfer No. 77949, Water Right No. 36-8401 is now described as follows.

Right Holder: HORIZON ORGANIC DAIRY LLC
 2577 E 500 S
 PAUL ID 83347

Priority Date: November 28, 1988

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	0.68 CFS	288.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWSW Sec. 28 Twp 09S Rge 21E JEROME County

GROUND WATER NWSE Sec. 28 Twp 09S Rge 21E JEROME 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	
09S	21E	28			19.7	13.5			20.2	21.5	38.5	37.6	34.7	36.9	37.8	37.7	27.0	15.0	340.1
09S	21E	29													22.2	35.7	40.0	26.6	124.5
09S	21E	32	12.6	33.7															46.3
09S	21E	33					.2	8.9											9.1

Total Acres: 520

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.130.
2. Rights 36-2254A, 36-2284, and 36-8401 when combined shall not exceed a total diversion rate of 8.1 cfs, a total annual maximum diversion volume of 2080 af at the field headgate, and the irrigation of 520 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.

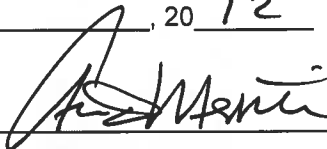
WATER RIGHT NO. 36-8401
As Modified by Transfer No. 77949

CONDITIONS OF APPROVAL

4. Prior to diversion and use of water under Transfer approval 77949, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion, in accordance with Department specifications.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.
6. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
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 28th day of June, 20 12



Southern Region Manager

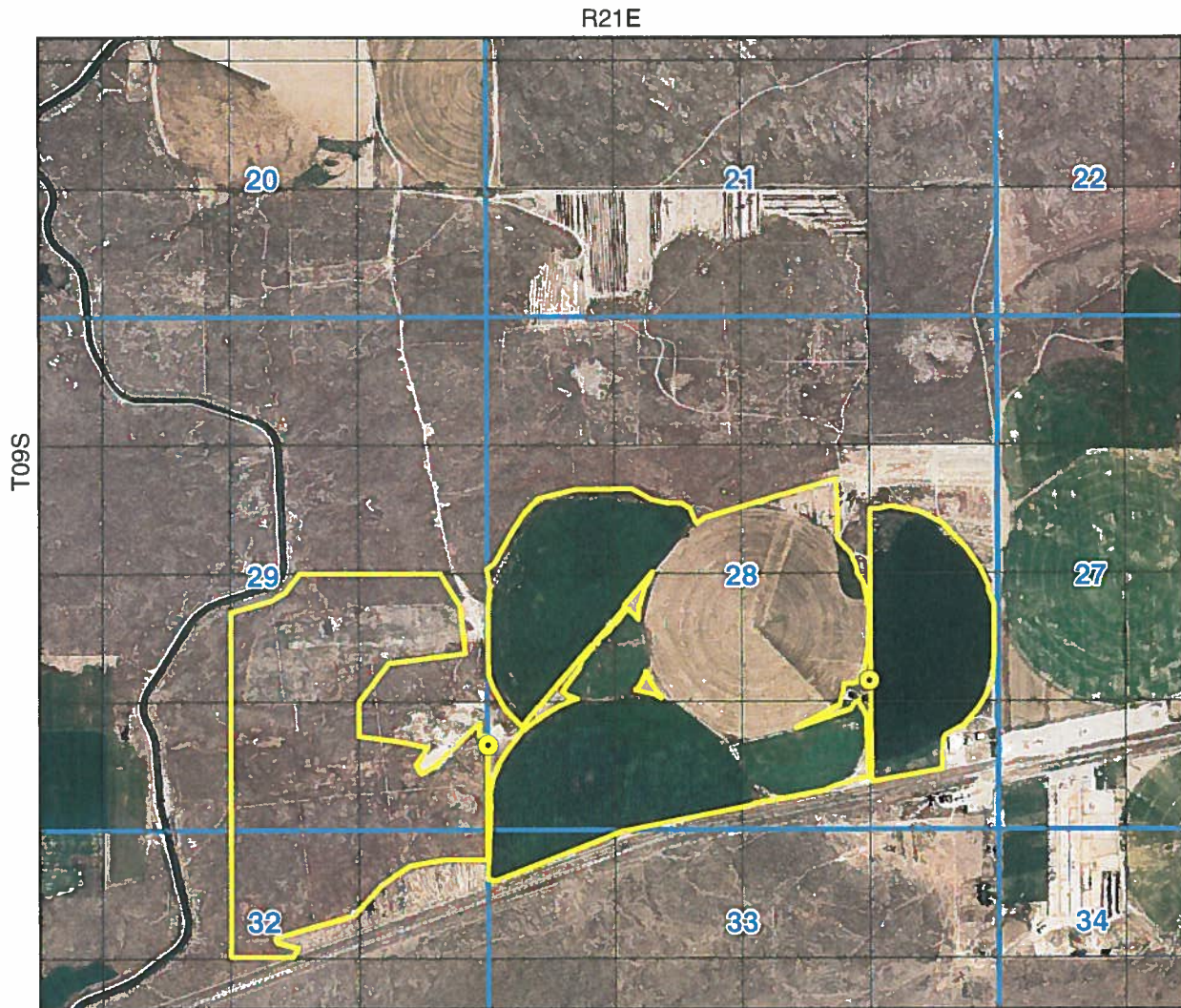
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 77949

Rights: 36-2254A, 36-2284, 36-8401

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

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 2, 2012

HORIZON ORGANIC DAIRY LLC
2577 E 500 S
PAUL ID 83347

RE: Transfer No.: 77949
 Water Right No(s): 36-2284 36-2254A 36-8401

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.

A portion of water right(s) 36-2254A, 36-2284 & 36-8401 was leased to the Water Supply Bank (bank) on September 30, 2011. To date, part of the right(s) appurtenant to 3.03 cubic feet per second (cfs) and 185.8 acres (36.2 acres in Section 28, 97 acres in Section 29, 50 acres in Section 32, and 2.6 acres in Section 33, T9S, R21E) remain leased to the bank. In accordance with the bank lease acceptance, the lessor/current right holder (right holder) may not use the right(s) while it is in the bank, even if the right(s) is not rented from the bank. This portion will remain in the bank until December 31, 2016, unless the right(s) are released earlier by the Idaho Water Resource Board or upon request by the right holder. To reduce the term of the lease, the right holder must submit a written request to the department. The department will verify if the right is rented or available for release, and notify the right holder of the release date.

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", with a stylized flourish at the end.

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC

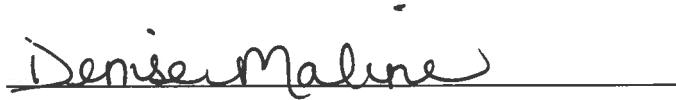
CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 77949
WATER RIGHTS NOS. 36-2284 36-2254A 36-8401**

**HORIZON ORGANIC DAIRY LLC
2577 E 500 S
PAUL ID 83347**

**BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST, STE 4
TWIN FALLS, ID 83301**

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

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 2, 2012

COPY

CINDY YENTER WATERMASTER
WATER DISTRICT # 130
1341 FILLMORE ST, STE 200
TWIN FALLS, ID 83301

Hand Delivered

RE: **APPROVED** Transfer No(s). 77948 (Horizon Organic Dairy LLC)
APPROVED Transfer No(s). 77949 (Horizon Organic Dairy LLC)

Dear Ms. Yenter:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer(s) 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 black ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant
Southern Region

Enclosure

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

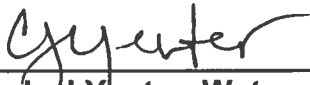
Application No: 77949
Water Right No: 36-2254A
Applicant Name: Horizon Organic Dairy

Watermaster's Recommendation:

- a) ☒ 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(s) for the following reasons:
- d) ☐ Additional comment:

Dated: June 27, 2012

Water District 130



Cindy J Yenter, Watermaster