STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 77817

This is to certify that: MICHAEL L JAMES And/Or
RHONDA J JAMES
21610 ROBINSON RD
OREANA ID 83650
208-834-2926

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

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
2-2259	WR/Decreed	12/18/1963	5.14 cfs	1285 af	N/A	257.0	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
2-2259	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
2-2259	**2-2259**	5.14 cfs	1285 af	N/A	257.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		**5.14 cfs**	**1285 af**	**N/A**	**257.0**		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 4th day of April, 2012

John Weston

Western Regional Manager

WATER RIGHT NO. 2-2259
As Modified by Transfer No. 77817

In accordance with the approval of Transfer No. 77817, Water Right No. 2-2259 is now described as follows.

Right Holder: MICHAEL L JAMES And/Or
RHONDA J JAMES
21610 ROBINSON RD
OREANA ID 83650

Priority Date: December 18, 1963

Source: SNAKE RIVER **Tributary:** COLUMBIA RIVER

BENEFICIAL USE	From	To	Diversion Rate	Volume
IRRIGATION	04/01	to 10/31	5.14 CFS	1,285.0 AF
			5.14 CFS	1,285.0 AF

LOCATION OF POINT(S) OF DIVERSION:
SNAKE RIVER L4 (SENE) Sec. 8 Twp 04S Rge 02E OWYHEE 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	
04S	02E	17			35.0	7.0	37.0	25.0	39.0	39.0									182.0
04S	02E	18	36.0			39.0													75.0

Total Acres: 257

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year(s) of the date of this approval.

2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

3. 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.

4. 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.

WATER RIGHT NO. 2-2259
As Modified by Transfer No. 77817

CONDITIONS OF APPROVAL

5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 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 6/15/2009.

6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 5.0 afa per acre at the field headgate for irrigation of the place of use.

7. The following rights are diverted through point of diversion described above: 2-2259, 2-2261A, 2-2261C, 2-2261D, 2-10399, 2-10421 and 2-10423.

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 April, 2012

John Westra

Western Regional Manager

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way • Boise, Idaho 83705-5082
Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 24, 2012

MICHAEL L JAMES
And/or
RHONDA J JAMES
21610 ROBINSON RD
OREANA ID 83650

RE: Transfer No.: 77817
Water Right No(s).: 2-2259

Transfer Approval Notice

Dear Water Right Holder:

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 2-2259 was leased to the Water Supply Bank (Bank) on April 28, 2003. In accordance with the bank lease acceptance, the lessor or current right holder may not use the right while it is in the Bank, even if the right is not rented from the Bank. The right will remain in the Bank indefinitely unless released earlier by the 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.

Please see the attached proof reports with the corrected Points of Diversion.

If you have any questions, please contact me at 208-334-2190.

Sincerely,

for

John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77817
WATER RIGHTS NOS. 2-2259

MICHAEL L JAMES
21610 ROBINSON RD
OREANA ID 83650

RHONDA J JAMES
21610 ROBINSON RD
OREANA ID 83650

Mandi Pearson
Office Specialist II

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 2-2261A

WATER RIGHT NUMBER: 2-2261A

Owner Type	Name and Address
Current Owner	RHONDA J JAMES 21610 ROBINSON RD OREANA, ID 83650 208-834-2926
Current Owner	MICHAEL L JAMES 21610 ROBINSON RD OREANA, ID 83650 208-834-2925

Priority Date: 12/19/1963

Basis: Decreed

Status: Active

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	03/15	11/15	4.400 CFS	1,100.00 AF
		Total Diversion:	4.400 CFS	1,100.00 AF

Location of Point(s) of Diversion

SNAKE RIVER L4 (SE1/4NE1/4) Sec. 8, Twp 04S, Rge 02E, B.M.

OWYHEE 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	
04S	02E	7																40.0	40.0
04S	02E	8									40.0		40.0	40.0		25.0	35.0		180.0

Total Acres: 220

Conditions of Approval:

1. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. X36 Rights 2-2261C and 2-2261D are also diverted through the point of diversion described above.

1. scurtis 4/2/2012 POD
Comment: The QQ indicator for Lot 4 was discovered as a department error. The QQ was corrected as explained in 3/10/12 memo in Transfer 77817 (2-2259). This correction is consistent with prior corrections to 2-10399, 2-10421 and 2-10423.

Dates and Other Information:

Decreed Date: 6/15/2009

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 2-2261C

WATER RIGHT NUMBER: 2-2261C

Owner Type	Name and Address
Current Owner	RHONDA J JAMES 21610 ROBINSON RD OREANA, ID 83650 208-834-2926
Current Owner	MICHAEL L JAMES 21610 ROBINSON RD OREANA, ID 83650 208-834-2925

Priority Date: 12/19/1963

Basis: Decreed

Status: Active

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	03/15	11/15	0.800 CFS	200.00 AF
		Total Diversion:	0.800 CFS	200.00 AF

Location of Point(s) of Diversion

SNAKE RIVER L4 (SE1/4NE1/4) Sec. 8, Twp 04S, Rge 02E, B.M.

OWYHEE 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	
04S	02E	7												40.0					40.0

Total Acres: 40

Conditions of Approval:

1. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. X36 Rights 2-2261A and 2-2261D are also diverted through the point of diversion described above.

Comments:

1. scurtis 4/2/2012 POD
Comment: The QQ indicator for Lot 4 was discovered as a department error. The QQ was corrected as explained in 3/10/12 memo in Transfer 77817 (2-2259). This correction is consistent with prior corrections to 2-10399, 2-10421 and 2-10423.

Dates and Other Information:

Decreed Date: 5/12/2009

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.

MEMORANDUM

TO: Transfer No. 77817

FROM: Sharla

DATE: March 19, 2012

RE: Evaluation of Application

The transfer proposes to correct the identification of the place of use under the single right. The transfer application was filed to fix a violation problem.

The site is 1¼ miles south of the Elmor/Ada County line on the south side of the Snake River between Castle Butte and Jackass Butte.

Deviations from Transfer Policy Standards

We are going to process this application without advertising for a simple records correction for the place of use.

Summary of Information Submitted

Authority to File: Applicants are owners of record and therefore have authority to file the transfer application.

Water Right Validity: Right presumed to be valid because the partial decree was issued in June of 2009, within the past five year period.

Injury to Other Water Rights: None anticipated.

Enlargement of Use: No enlargement will occur. The rate, volume and number of acres authorized for irrigation will remain the same.

Local Public Interest: Irrigation of crops provides food required for the maintenance of human life and is certainly considered in the public interest.

Beneficial Use/Conservation of Water Resources:
The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

We would typically send a comment letter to BLM since the POD is public land. But there is no POD change occurring and all of the irrigated acres as corrected are privately owned by the water right holder. Therefore, no comment letter needs to be sent to BLM.

Data entry affected the correct record. The right was partially decreed in 2009 and migrated to wr records. The transferred water right is in the Water Bank; note made on review sheet for approval document to include necessary information in cover letter. I will also notify Monica Van Bussum of its approval.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.