

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 77743

This is to certify that: TLK FARMS

TERRY KETTERLING
475 E 16TH N ST
MOUNTAIN HOME ID 83647
(208) 587-9855

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>
61-11975	WR/Decreed	06/17/1966	1.97 cfs	470 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

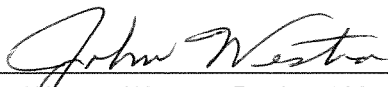
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
61-11975	NO	NO	NO	YES	NO	NO

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>
61-11975	61-11975	1.97 cfs	470 af	N/A	N/A		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		1.97 cfs	470 af	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 9th day of February, 20 12



John Westra, Western Regional Manager

Right Holder: TLK FARMS
TERRY KETTERLING
LINDA KETTERLING
475 E 16TH N ST
MOUNTAIN HOME ID 83647

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	01/01	to 12/31	0.56 CFS	133.0 AF
STOCKWATER	01/01	to 12/31	1.41 CFS	337.0 AF
			1.97 CFS	470.0 AF

GROUND WATER	NWNE	Sec. 3	Twp 05S	Rge 06E	ELMORE County
GROUND WATER	NWNE	Sec. 3	Twp 05S	Rge 06E	ELMORE County
GROUND WATER	NWNE	Sec. 3	Twp 05S	Rge 06E	ELMORE County

Twp Rge Sec			NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	06E	3	X	X	X	X					X	X	X	X	X	X	X	X	
05S	06E	10	X	X	X	X	X	X	X	X									

[illegible]

WATER RIGHT NO. 61-11975
As Modified by Transfer No. 77743

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year 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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
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. Rights 61-11975 and 61-10663 when combined shall not exceed a total diversion rate of 1.97 cfs, nor a total annual maximum diversion volume of 352 af.
7. Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality.
8. Commercial use is for a dairy located within the NE, Sec 3, T5S, R6E.
9. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the dairy as authorized by this water right.
10. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.

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 9th day of February, 20 12


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

February 9, 2012

TLK FARMS
TERRY KETTERLING
LINDA KETTERLING
475 E 16TH N ST
MOUNTAIN HOME ID 83647

RE: Transfer No. 77743
Water Right No.: 61-11975

Transfer Approval Notice and Approved Application for Drilling Permit #914254-862890

Dear Water Right Holders:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right. 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.

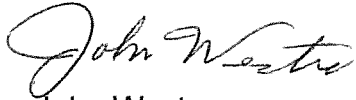
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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 208-334-2190.

Sincerely,

A handwritten signature in cursive script that reads "John Westra". The signature is fluid and written in dark ink.

John Westra

Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

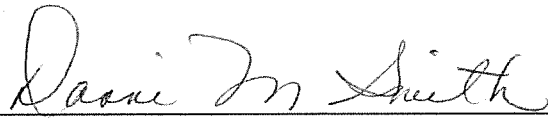
I hereby certify that on February 9, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL and hand delivered APPROVED APPLICATION FOR DRILLING PERMIT # 914254-862890 to the persons listed below:

RE: TRANSFER NO. 77743
WATER RIGHT NO. 61-11975

and

APPROVED APPLICATION FOR DRILLING PERMIT #914254-862890

**TLK FARMS
TERRY KETTERLING
LINDA KETTERLING
475 E 16TH N ST
MOUNTAIN HOME ID 83647**



Danni M. Smith
Technical Specialist 2

Drilling Permit No. 914254-862890
 Drilling Permit I.D. Tag No. D0063603
 Water Right Permit No. 61-11975
 Injection Permit No. _____

State of Idaho
 Department of Water Resources
APPLICATION FOR DRILLING PERMIT
 (FOR THE CONSTRUCTION OF A WELL)

1. Property Owner (please print): Terry Ketterling TLK

2. Current Mailing Address: 475 East 16 North

City: Mountain Home State: ID. Zip Code: 83647 Telephone (____) _____

3. Proposed Well Location: Twp. 5 S, Rge. 6 E, Sec. 3, SW 1/4 NW 1/4 NE 1/4
 (10) (40) (160)

Gov't Lot No. _____ County Elmore Lat. 43.13833 Long. -115.435833

Street Address of Well Location 11400 SW. TLK Drive City Mtn. Home

Give at least name of road + Distance to Nearest Road or Landmark

Lot, block and subdivision _____

4. Proposed Use of Well: (Note: Any well drilled for a Public Water Supply requires prior DEQ approval.)

☐ DOMESTIC (42-111a): The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to 1/2 acre of land, if the total use is not in excess of 13,000 gpd.

☐ DOMESTIC (42-111b): Any other use if the diversion rate does not exceed 0.04 cfs (18 gpm) and a diversion volume of 2500 gpd.

NON-DOMESTIC: ☐ Irrigation ☐ Municipal ☐ Industrial ☐ Public Water Supply
☐ Commercial ☒ Other Dairy Well
 (Describe) _____

☐ INJECTION

☐ MONITORING: A well bore schematic and map is required. No. of proposed wells: _____

5. Well Construction Information:

A. ☒ New well ☐ Modify ☐ Deepening ☐ Replace Previous Well # _____

B. Proposed Casing Diameter 10" Proposed Maximum Depth 600 feet

C. Anticipated bottom hole temperature:

☒ 85°F or less (Cold Water Well) ☐ 85°F to 212°F (Low Temp. Geo. Well) ☐ 212°F or more (Geothermal Well)

6. Construction Start Date: _____

7. Drilling Company Name: Hiddleston Drilling Driller's Lic. No. 35

NOTE: The actual well driller must be identified prior to drilling.

8. Applicant's Signature: Terry Ketterling TLK Date: 2/6/12

Title: _____

Address (if different than owner): _____

City: _____ State: _____ Zip Code: _____ Telephone: _____

RECEIVED

FEB 06 2012

WATER RESOURCES

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This Permit is APPROVED Date February 9, 2012

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. **READ CAREFULLY!**

GENERAL CONDITIONS:

1. This drilling permit is valid for two (2) months from the above approval date for the start of construction and is valid for one(1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare, which may be required before construction of the well. All wells must be drilled a minimum distance of 100 feet from a drain field. Domestic and Public Water Supply wells must be drilled a minimum of 50 feet and 100 feet respectively from a septic tank.
3. The well shall be constructed by a driller currently licensed in the State of Idaho who must maintain a copy of the drilling permit and the well ID tag at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state, or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho. If the well being drilled is associated with approved water right(s) use of the well must comply with conditions of said water right(s).
7. If the depth of this well exceeds 500 feet or the well is in an area known to have LTG water, bottom hole temperature must be measured and recorded on the Driller's Log, and reported on the Well Driller's Report.
8. If a bottom hole temperature of 85°F or greater is encountered, well construction shall cease and the well driller shall contact the Department immediately.
9. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "DigLine" Number for your area is 1-800-342-1585.
10. The stainless steel I. D. tag must be securely and permanently attached to the well casing by the Driller upon completion of the well, and prior to removing the drill rig from the drill site and must remain permanently attached above ground level for the life of the well. The well tag shall be attached by welding at least 3 sides or using four (4) stainless steel, closed-end pop rivets.
11. Any well being replaced by a new well shall be properly abandoned by the well driller prior to removing the drilling equipment, unless otherwise authorized by the department.

SPECIFIC CONDITIONS:

John Westra _____ Manager _____
Signature of Authorized Department Representative Title

Receipt No. W03988U Received by MP Fee \$200.00 Date 2/7/12

EXTENSION OF DRILLING PERMIT

Extension approved by _____ Approval Date _____

This extension expires: _____

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. 77743
FROM: Kay Walker *Kay*
DATE: February 7, 2012
RE: Evaluation of Application

The transfer proposes to add another well to this water right for dairy purposes. The additional well will also be utilized under Transfer 75307, if approved, to supply water to the dairy and stock.

The site is located approximately 8 miles south of Mountain Home and 7.5 miles southeast of Mountain Home Air Force Base.

Contact person for the applicant is Thomas Carson, Chief Financial Officer for TLK Farms and TLK Dairy. Mr. Carson can be reached at 650 N 2nd East, Mountain Home, ID, 83647, phone: 587-7060.

Deviations from Transfer Policy Standards

This application was submitted on the short form since the proposal is just to add another well to their water right. The right has 2 wells currently in use; one of them was decreed to a 10 acre tract and the second to a 40 acre tract. This proposal will add a 3rd well to the system and it will be described to a 40 acre tract description. Since the only change to the water right will be an additional point of diversion the application can be processed without being advertised.

Summary of Information Submitted

Authority to File:

The applicant is the right holder of record.

Water Right Validity:

Right is presumed to be valid. 2009 aerial photography of this area shows the stock pens and dairy facilities are in place.

Injury to Other Water Rights:

There should be no injury to other water rights. The applicant proposes to add another well, with no increase in the amount of water to be diverted.

Enlargement of Use:

No increase in the amount of water to be diverted or used is proposed under this application.

Local Public Interest:

It is within the local public interest to allow a property owner improve their water supply system to keep their cattle and dairy business productive.

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.

Discussion

Data entry affected the correct record. The right was decreed in the SRBA in October of 2000 and then went through a transfer process in 2002.

Overlapping rights at existing &/or proposed point of diversion are Rt. 61-10663. The current limiting conditions shall be carried over to any decision made on this application.

The applicant has submitted a drilling permit application for this proposed well. We should take action on that application when a decision is made on the proposed transfer.

Summary

Condition 046 should be applied since a new well is proposed.