

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77534

This is to certify that: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607
 (208)454-7705

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>
63-10268	WR/License	10/03/1984	1.54 cfs	347 af	77.0	825.0	GROUND WATER
63-2839	WR/Decreed	09/14/1955	1.35 cfs	355.5 af	79.0	825.0	GROUND WATER
63-3329	WR/Decreed	02/16/1963	2.06 cfs	738 af	164.0	825.0	GROUND WATER
63-3366	WR/Decreed	08/26/1963	2.09 cfs	720 af	144.3	825.0	GROUND WATER
63-3396	WR/Decreed	12/13/1963	1.2 cfs	270 af	54.1	825.0	GROUND WATER
63-8232	WR/Decreed	10/28/1975	2.73 cfs	1228.3 af	250.1	825.0	GROUND WATER
63-8253	WR/Decreed	01/16/1976	1.16 cfs	563.7 af	139.0	825.0	GROUND WATER
63-29025	WR/Decreed	08/15/1960	0.64 cfs	144 af	32.0	825.0	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>
63-10268	NO	NO	YES	NO	NO	NO
63-2839	NO	NO	YES	NO	NO	NO
63-3329	NO	NO	YES	NO	NO	NO
63-3366	NO	NO	YES	NO	NO	NO
63-3396	NO	NO	YES	NO	NO	NO
63-8232	NO	NO	YES	NO	NO	NO
63-8253	NO	NO	YES	NO	NO	NO
63-29025	NO	NO	YES	NO	NO	NO

SUPPORT DATA

IN FILE # 63-2839

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
63-10268	63-10268	1.54 cfs	347 af	77.0	865.0		N/A	N/A	N/A	N/A
63-2839	63-2839	1.35 cfs	355.5 af	79.0	865.0		N/A	N/A	N/A	N/A
63-3329	63-3329	2.06 cfs	738 af	164.0	865.0		N/A	N/A	N/A	N/A
63-3366	63-3366	2.09 cfs	720 af	144.3	865.0		N/A	N/A	N/A	N/A
63-3396	63-3396	1.2 cfs	270 af	54.1	865.0		N/A	N/A	N/A	N/A
63-8232	63-8232	2.73 cfs	1228.3 af	250.1	865.0		N/A	N/A	N/A	N/A
63-8253	63-8253	1.16 cfs	563.7 af	139.0	865.0		N/A	N/A	N/A	N/A
63-29025	63-29025	0.64 cfs	144 af	32.0	865.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		8.98 cfs	3622.7 af	780.0	865.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 6th day of January, 20 12


 John Westra, Western Regional Manager



WATER RIGHT NO. 63-2839
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-2839 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: September 14, 1955

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	1.35 CFS	355.5 AF
			1.35 CFS	355.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NESE	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County

<u>PLACE OF USE:</u>			<u>IRRIGATION</u>																<u>Totals</u>
<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N	03W	8															40.0	40.0	80.0
02N	03W	9										40.0	39.0				32.0		111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N	03W	17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

WATER RIGHT NO. 63-2839
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. This right is limited to the irrigation of 79 acres within the place of use described above in a single irrigation season.
6. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
7. Rights 63-2839 and 63-29025 when combined shall not exceed a total diversion rate of 1.35 cfs.
8. Right 63-29025 is an enlargement of Right 63-2839 pursuant to Section 42-1426, Idaho Code.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
10. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

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 6th day of January, 20 12



John Westra, Western Regional Manager

WATER RIGHT NO. 63-3329
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-3329 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: February 16, 1963

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	2.06 CFS	738.0 AF
			2.06 CFS	738.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NESE	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County

<u>PLACE OF USE:</u>			<u>IRRIGATION</u>																<u>Totals</u>
<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N	03W	8															40.0	40.0	80.0
02N	03W	9											40.0	39.0			32.0		111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N	03W	17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

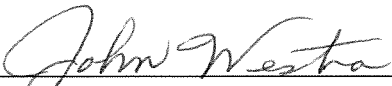
WATER RIGHT NO. 63-3329
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
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 2/6/2009.
6. This right is limited to the irrigation of 164 acres within the place of use described above in a single irrigation season.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
8. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
9. Rights 63-3329, 63-8253 and 63-10268 when combined shall not exceed a total diversion rate of 3.22 cfs, and a total annual maximum diversion volume of 1085.0 af at the field headgate for the irrigation of 241 acres.
10. Rights 63-3329 and 63-8253 when combined shall not exceed the irrigation of 164 acres.
11. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

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 6th day of January, 20 12



John Westra, Western Regional Manager

WATER RIGHT NO. 63-3366
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-3366 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: August 26, 1963

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	0.22 CFS	14.1 AF
STOCKWATER	01/01	to 12/31	0.22 CFS	56.5 AF
IRRIGATION	03/15	to 11/15	2.09 CFS	649.4 AF
			2.09 CFS	720.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NESE	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 17	X	X	X	X													

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 17	X	X	X	X													

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 8															40.0	40.0	80.0
02N 03W 9										40.0	39.0				32.0		111.0
02N 03W 16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N 03W 17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

WATER RIGHT NO. 63-3366
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
6. Water diverted and used for the dairy operation, including land application of waste water, shall satisfy federal and Idaho state laws, regulations, and standards related to water quality.
7. This right is limited to the irrigation of 144.3 acres within the place of use described above in a single irrigation season.
8. Irrigation use under Rights 63-3366 and 63-8232 when combined shall not exceed a total annual maximum diversion volume of 1594.8 af at the field headgate and the irrigation of 354.4 acres.
9. Rights 63-3366 and 63-3396 when combined shall not exceed a total diversion rate of 2.09 cfs.
10. Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs and a total annual maximum diversion volume of 2038.2 af.
11. Irrigation use under Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs, a total annual maximum diversion volume of 1838.2 af and the irrigation of 428 acres.
12. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/7/2009.
13. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.

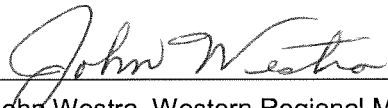
WATER RIGHT NO. 63-3366
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

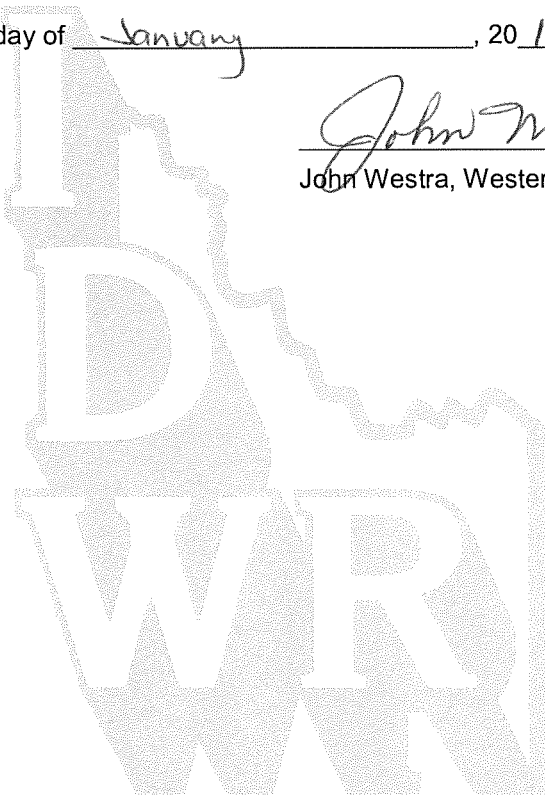
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
15. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.
16. Commercial use is for a dairy barn.

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 6th day of January, 20 12



John Westra, Western Regional Manager



WATER RIGHT NO. 63-3396
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-3396 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: December 13, 1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01	to 12/31	0.08 CFS	21.3 AF
COMMERCIAL	01/01	to 12/31	0.08 CFS	5.3 AF
IRRIGATION	03/15	to 11/15	1.20 CFS	243.4 AF
			1.20 CFS	270.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NESE	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 17	X	X	X	X													

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 17	X	X	X	X													

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N 03W 8															40.0	40.0	80.0
02N 03W 9										40.0	39.0				32.0		111.0
02N 03W 16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N 03W 17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

WATER RIGHT NO. 63-3396
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
6. Water diverted and used for the dairy operation, including land application of waste water, shall satisfy federal and Idaho state laws, regulations, and standards related to water quality.
7. This right is limited to the irrigation of 54.1 acres within the place of use described above in a single irrigation season.
8. Rights 63-3366 and 63-3396 when combined shall not exceed a total diversion rate of 2.09 cfs.
9. Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs and a total annual maximum diversion volume of 2038.2 af.
10. Irrigation use under Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs, a total annual maximum diversion volume of 1838.2 af and the irrigation of 428 acres.
11. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/7/2009.
12. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

WATER RIGHT NO. 63-3396
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

14. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

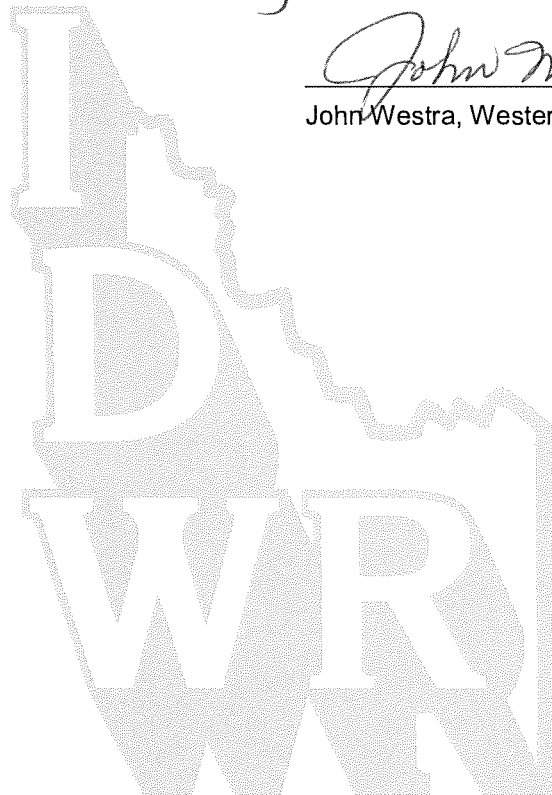
15. Commercial use is for a dairy barn.

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 6th day of January, 20 12



John Westra, Western Regional Manager



WATER RIGHT NO. 63-8232
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-8232 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: October 28, 1975

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	0.32 CFS	20.6 AF
IRRIGATION	03/15	to 11/15	2.73 CFS	1,125.5 AF
STOCKWATER	01/01	to 12/31	0.32 CFS	82.2 AF
			2.73 CFS	1,228.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NESE	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	03W	17	X	X	X	X													

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	03W	17	X	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	
02N	03W	8															40.0	40.0	80.0
02N	03W	9									40.0	39.0			32.0				111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N	03W	17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

WATER RIGHT NO. 63-8232
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
6. Water diverted and used for the dairy operation, including land application of waste water, shall satisfy federal and Idaho state laws, regulations, and standards related to water quality.
7. This right is limited to the irrigation of 250.1 acres within the place of use described above in a single irrigation season.
8. Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs and a total annual maximum diversion volume of 2038.2 af.
9. Irrigation use under Rights 63-3366, 63-3396 and 63-8232 when combined shall not exceed a total diversion rate of 4.41 cfs, a total annual maximum diversion volume of 1838.2 af and the irrigation of 428 acres.
10. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/7/2009.
11. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

WATER RIGHT NO. 63-8232
As Modified by Transfer No. 77534

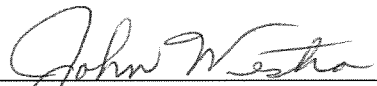
CONDITIONS OF APPROVAL

13. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

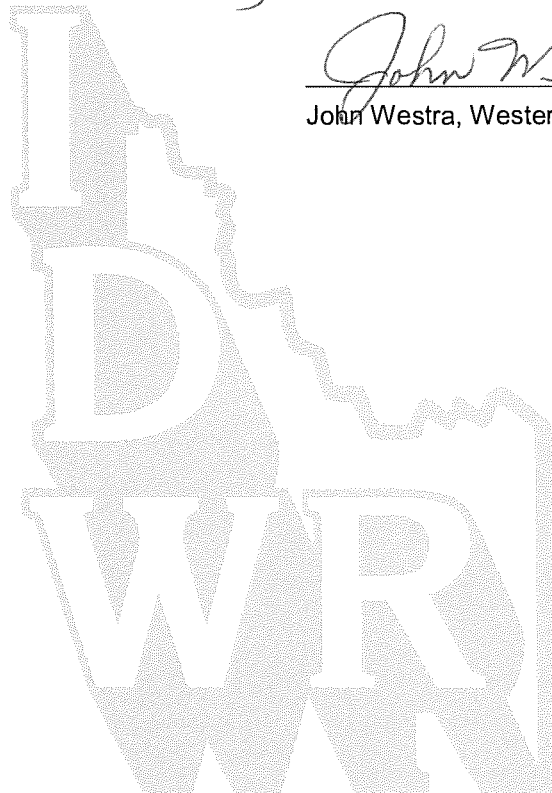
14. Commercial use is for a dairy barn.

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 6th day of January, 20 12



John Westra, Western Regional Manager



WATER RIGHT NO. 63-8253
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-8253 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: January 16, 1976

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	1.16 CFS	563.7 AF
			1.16 CFS	563.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NWSW	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NESE	Sec. 16	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County
GROUND WATER	NENE	Sec. 17	Twp 02N	Rge 03W	CANYON County

<u>PLACE OF USE:</u>		IRRIGATION																<u>Totals</u>			
Twp	Rge	Sec	NE				NW				SW				SE						
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
02N	03W	8																	40.0	40.0	80.0
02N	03W	9											40.0	39.0					32.0		111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0			579.0
02N	03W	17	18.0	36.0	26.0	15.0															95.0

Total Acres: 865

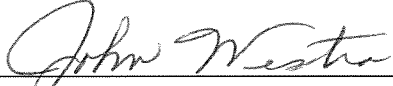
WATER RIGHT NO. 63-8253
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 4/3/2009.
6. This right is limited to the irrigation of 139 acres within the place of use described above in a single irrigation season.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
8. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
9. Rights 63-3329, 63-8253 and 63-10268 when combined shall not exceed a total diversion rate of 3.22 cfs, and a total annual maximum diversion volume of 1085.0 af at the field headgate for the irrigation of 241 acres.
10. Rights 63-3329 and 63-8253 when combined shall not exceed the irrigation of 164 acres.
11. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

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 6th day of January, 20 12


John Westra, Western Regional Manager

WATER RIGHT NO. 63-10268
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-10268 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: October 03, 1984

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	1.54 CFS	347.0 AF
			1.54 CFS	347.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NESE	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County

<u>PLACE OF USE:</u>		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			
02N	03W	8																	40.0	40.0	80.0
02N	03W	9											40.0	39.0					32.0		111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0			579.0
02N	03W	17	18.0	36.0	26.0	15.0															95.0

Total Acres: 865

WATER RIGHT NO. 63-10268
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. This right is limited to the irrigation of 77 acres within the place of use described above in a single irrigation season.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
8. Rights 63-3329, 63-8253 and 63-10268 when combined shall not exceed a total diversion rate of 3.22 cfs, and a total annual maximum diversion volume of 1085.0 af at the field headgate for the irrigation of 241 acres.
9. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

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 6th day of January, 20 12



John Westra, Western Regional Manager

WATER RIGHT NO. 63-29025
As Modified by Transfer No. 77534

In accordance with the approval of Transfer No. 77534, Water Right No. 63-29025 is now described as follows.

Right Holder: BERANNA DAIRY
 9166 PERCH RD
 CALDWELL ID 83607

Priority Date: August 15, 1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	0.64 CFS	144.0 AF
			0.64 CFS	144.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWSWSW	Sec. 9 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NWSW	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NESE	Sec. 16 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County
GROUND WATER	NENE	Sec. 17 Twp 02N	Rge 03W CANYON County

<u>PLACE OF USE:</u>			<u>IRRIGATION</u>																<u>Totals</u>
<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N	03W	8															40.0	40.0	80.0
02N	03W	9											40.0	39.0			32.0		111.0
02N	03W	16	38.0	37.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	28.0	32.0	37.0	39.0	20.0	30.0	40.0	579.0
02N	03W	17	18.0	36.0	26.0	15.0													95.0

Total Acres: 865

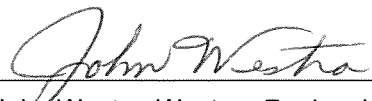
WATER RIGHT NO. 63-29025
As Modified by Transfer No. 77534

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one 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. 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.
5. This right is limited to the irrigation of 32 acres within the place of use described above in a single irrigation season.
6. Rights 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025 when combined shall not exceed a total diversion rate of 8.98 cfs, a total annual maximum diversion volume of 3622.7 and the irrigation of 780 acres in a single irrigation season.
7. Rights 63-2839 and 63-29025 when combined shall not exceed a total diversion rate of 1.35 cfs.
8. This right is based upon an enlargement of Right No. 63-2839 pursuant to Section 42-1426, Idaho Code.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
10. The following rights are diverted through points of diversion described above: 63-2839, 63-3329, 63-3366, 63-3396, 63-8232, 63-8253, 63-10268 and 63-29025.

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 6th day of January, 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

January 9, 2012

BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607

RE: Transfer No.: 77534
Water Right No(s): 63-2839 63-29025 63-3329 63-3366 63-3396
 63-8232 63-8253 63-10268

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, water right 63-3396 and 63-8232 were leased to the Water Supply Bank (bank) on March 5, 2003. In accordance with the water supply bank lease acceptance, the lessor 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 for an indefinite amount of time unless released earlier by the Water Resource Board, or upon request by the lessor. To change the term of the lease or to release the right(s) from the bank, the lessor must submit a request in writing to the department prior to 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 208-334-2190.

Sincerely,



for John Westra

Western Regional Manager

Enclosure(s)

cc: DARWIN VANDER STELT

MOFFATT THOMAS BARRETT ROCK & FIELD CHTD

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

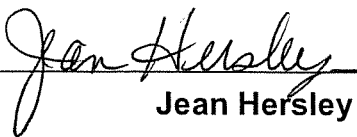
RE: TRANSFER NO. 77534
WATER RIGHTS NOS. 63-2839 63-29025 63-3329 63-3366
63-3396 63-8232 63-8253 63-10268

DARWIN VANDER STELT
16931 STAR RD
NAMPA ID 83687

BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607

~~ANGELA D SCHAER-KAUFMANN
MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
PO BOX 829
BOISE ID 83701-0829~~

MOFFATT THOMAS BARRETT ROCK & FIELD CHTD
C/O SCOTT L CAMPBELL
PO BOX 829
BOISE ID 83701-0829



Jean Hersley
Office Specialist II

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

DEC 27 2011

29512 586648

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)
WATER RESOURCES
WESTERN REGION

)SS.

County of Canyon)

Barbara Spencer
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

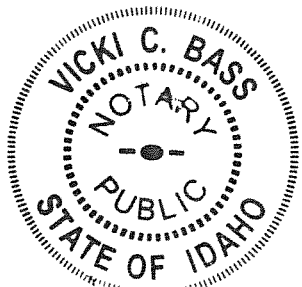
That said notice was published the following:
12/15/2011 12/22/2011

Barbara Spencer
STATE OF IDAHO)

County of Canyon)

On this 22nd day of December in the year of 2011 before me a Notary Public, personally appeared. Barbara Spencer, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Vicki C Bass
Notary Public for Idaho
Residing at Caldwell
My Commission expires 04/19/2014



LEGAL NOTICE

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

63-33467

CITY OF BOISE
PUBLIC WORKS DEPT
150 N CAPITOL BLVD
PO BOX 500
BOISE, ID 83701-0500

Point of Diversion SWSNW S36 T05N R05W CANYON County Source DIXIE SLOUGH Tributary BOISE RIVER
Point of Diversion NWSNW S36 T05N R05W CANYON County Source GROUND WATER Tributary BOISE RIVER
Point of Diversion NWSNW S36 T05N R05W CANYON County Source GROUND WATER Tributary BOISE RIVER
Point of Diversion SESENW S36 T05N R05W CANYON County Source GROUND WATER Tributary BOISE RIVER
Use: WATER QUALITY IMPROVEMENT 04/01 to 10/30 200 CFS
Total Diversion: 200 CFS
Date Filed: 1/5/2011
Place Of Use: WATER QUALITY IMPROVEMENT
T05N R05W S36 SENW NESW

63-33564

KEN MARTIN
ALEENA MARTIN
28071 FARMWAY RD
CALDWELL, ID 83607

Point of Diversion SESE S8 T05N R03W CANYON County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.16 CFS
Total Diversion: 0.16 CFS
Date Filed: 8/23/2011
Place Of Use: IRRIGATION
T05N R03W S8 SESE
Total Acres: 8
Water bearing zone to be appropriated is from 60 to 100 feet.

63-33565

CRAIG A MOORE
GEORGENE MOORE
PO BOX 14
MELBA, ID 83641

Point of Diversion L3 (SENW) S8 T01S R02W CANYON County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.15 CFS
Total Diversion: 0.15 CFS
Date Filed: 8/24/2011
Place Of Use: IRRIGATION
T01S R02W S8 L3 (SENW)
Total Acres: 4.5
Water bearing zone to be appropriated is from 90 to 440 feet.

63-33576

DANIEL KNORPP
17134 BIG SAGE CT
CALDWELL, ID 83607

Point of Diversion NENE S18 T05N R03W CANYON County Source GROUND WATER Tributary
Use: DOMESTIC 01/01 to 12/31 0.02 CFS
Use: IRRIGATION 03/15 to 11/15 0.04 CFS
Total Diversion: 0.06 CFS
Date Filed: 9/20/2011
Place Of Use: IRRIGATION AND DOMESTIC
T05N R03W S18 NENE
Total Acres: 1.2
Water bearing zone to be appropriated is from 143 to 148 feet.

PROPOSED CHANGE OF WATER RIGHTS

Beranna Dairy of 9166 Perch Rd., Caldwell, Idaho 83607, filed Application No. 77534 to transfer eight water rights with 1950 to 1984 priority dates from ground water totaling 8.92 cfs and 3622.7 afa. The purpose of the transfer is to add a 40-acre quarter-quarter in Township 2 North, Range 3 West, Section 8, SESE, to the permissible place of use. The permissible place of use will change from 825 acres to 865 acres. There is no increase in quantity and the irrigated acres will remain unchanged at 780 acres. Water will be used at the current place of use near the intersection of Marsing Rd. and Kimball Ave. in Canyon County, approximately 5 miles west of Nampa, Idaho.

PROPOSED CHANGE OF WATER RIGHTS

Little Cattle Co. of PO Box 488, Emmett, ID, 83617, filed Application No. 77575 to transfer three water rights with 1959 to 1976 priority dates from a ground water source totaling 3.28 cfs. The purpose of the transfer is to add a point of diversion and change the place of use. Water will be used at the current place of use 8.3 miles south of Emmett and 4 miles north of Star.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the rights &/or proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222 and 42-203A. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before January 3, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

December 15, 22, 2011 586648

✓ OK
88 12-27-2011

PROPOSED CHANGE OF WATER RIGHTS

Beranna Dairy of 9166 Perch Rd., Caldwell, Idaho 83607, filed Application No. 77534 to transfer eight water rights with 1950 to 1984 priority dates from ground water totaling 8.92 cfs and 3622.7 afa. The purpose of the transfer is to add a 40-acre quarter-quarter in Township 2 North, Range 3 West, Section 8, SESE, to the permissible place of use. The permissible place of use will change from 825 acres to 865 acres. There is no increase in quantity and the irrigated acres will remain unchanged at 780 acres. Water will be used at the current place of use near the intersection of Marsing Rd. and Kimball Ave. in Canyon County, approximately 5 miles west of Nampa, Idaho.

For additional information concerning the property location, please contact Western Region office at 208-334-2190 or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right(s) and the proposed transfer. Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Director, IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before <date>. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on <dates>

MEMORANDUM

TO: Transfer No. 77534 File

FROM: Vicky Music

DATE: November 28, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add 40 acres in one quarter-quarter to the permissible place of use [PPU] for the 8 Beranna Dairy rights.

The proposed 865-acres PPU site is located between Marsing and Deer Flat Roads along Kimball Ave., approximately 5 miles west of Nampa and 7 miles south of Caldwell.

Contact person for the applicant is Darwin Vander Stelt, consultant.

Deviations from Transfer Policy Standards

In Part 1.B.3 of the application, the points of diversion [PODs], a domestic well is listed. However, the right associated with the domestic right is not one of the rights being transferred, nor does the application propose to add a POD. This error will not delay processing of the application. The domestic well will not be included if the transfer is approved.

The application lists each right separately in Part 1.B.4, the place of use. All of the rights have the same PPU and it is not necessary to list the PPU of each right separately. However, it is not a deviation of policy and will not delay processing.

The applicant did not answer the question posed in Item Part 1.B.5.c as to whether the lands are subject to liens, deeds of trust, mortgages or contracts. Instead the applicant states that nothing is being transferred from the existing rights. Attached to the application as Attachment 6 is a letter from Northwest Farm Credit Services [NFCS] referencing their securities interest on the applicant's loans. This satisfied the question and will not delay processing.

Last, the applicant answers Part 1.B.5.f "No" to whether any part of the rights are leased to the water bank. A water bank lease search on the IDWR public website indicates that indicates that rights 63-3366, 63-3396 and 63-8232 are leased to the Water Supply Bank ["bank"] for an "indefinite" time period. This is addressed later in this memo. Processing can continue.

Summary of Information Submitted

Authority to File:

The applicant, Beranna Dairy, is the owner of record of the water rights proposed to be transferred. The application includes a statement signed by the dairy general partners,

authorizing Bernie Teunissen to make decisions regarding these water rights. Bernie Teunissen signed the application.

Water Right Validity:

All of the rights except for Right no. 63-10268 presumed to be valid because the partial decrees were issued in 2009, within the past five year period.

Right no. 63-10268 is presumed to be valid. No SRBA claim was required because the beneficial use field exam was conducted in 1997 and the license was issued in 2004. I confirmed recent beneficial use via a 2011 aerial photograph in which the active dairy and irrigation was seen.

Injury to Other Water Rights:

No injury to other water rights is expected by adding a QQ to the PPU.

Enlargement of Use:

The application does not propose an enlargement in the diversion rates, diversion volumes or consumptive use volumes and no enlargement is expected.

Local Public Interest:

There are no apparent public interest issues with adding a QQ to the PPU.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Additional Information/Analysis

No additional information is needed from the applicant and the transfer proposal will not be parallel processed with the SO. No additional IDWR analysis is needed from other IDWR programs.

Watermaster comments are not needed and will not be solicited, nor is it necessary to solicit comments from other individuals or entities.

Discussion

The 8 water rights in this transfer are limited to the irrigation of 780-acres within an 825-acre PPU. The application proposes to add the following 40-acre quarter-quarter to the PPU: T2N R3W S8 SESE. This would increase the PPU to 865 acres. No increase in the quantity or acres irrigated is proposed.

The special form letter and spreadsheet for calculating volume used when processing dairy applications are not necessary here because this is a simple change to the boundary of the PPU.

Data entry affected the correct record. The partial decrees for the rights claimed in the SRBA were issued in 2009 and the results were migrated to wr records.

SRBA status was reported above.

There are additional no overlapping rights at existing &/or proposed POD &/or POU. The 8 rights in this transfer represent all of the overlapping rights. No surface water rights are appurtenant to the PPU.

Mitigation is not required or proposed.

Workflow indicates that rights 63-3396 and 63-8232 are leased to the Water Supply Bank for an “indefinite” time period. The water bank lease search on the IDWR public website indicates that parts of 63-3366, as well as 63-3396 and 63-8232, are leased to the bank, but not rented. A letter will be send to the applicant stating that the portion of the rights in the bank cannot be used until the rights are released from the bank.

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.

Condition 046 n/a because a new well is not proposed.