

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77499

This is to certify that: BASIN AND RANGE RESOURCE COMPANY LLC
 3480 G S RICHARDS BLVD #101
 CARSON CITY NV 89703
 (775)885-5000

has requested a change to the water rights listed below. This change in water rights 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>
63-7177	AJC/License	12/12/1968	4.70 cfs	1570.5 af	N/A	349.0	GROUND WATER
63-7349	AJC/License	07/07/1970	1.66 cfs	802.0 af	N/A	310.0	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>
63-7177	NO	NO	NO	YES	NO	NO
63-7349	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>
63-7177	63-7177	4.70 cfs	1570.5 af	N/A	349.0		N/A	N/A	N/A	N/A
63-7349	63-7349	1.66 cfs	802.0 af	N/A	310.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		6.36 cfs	2072.5 af	N/A	659.0		N/A	N/A	N/A	N/A

Detailed Water Right Descriptions attached

Dated this 20th day of September, 20 11


 John Westra, Western Regional Manager

SUPPORT DATA

IN FILE # 63-7177

WATER RIGHT NO. 63-7177
As Modified by Transfer No. 77499

In accordance with the approval of Transfer No. 77499, Water Right No. 63-7177 is now described as follows.

Right Holder: BASIN AND RANGE RESOURCE COMPANY LLC
 3480 G S RICHARDS BLVD #101
 CARSON CITY NV 89703

Priority Date: December 12, 1968

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 10/31	4.70 CFS	1,570.5 AF
			4.70 CFS	1,570.5 AF

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NWSW	Sec. 23, Twp 06N, Rge 05W, PAYETTE County
GROUND WATER	SESW	Sec. 23, Twp 06N, Rge 05W, PAYETTE County
GROUND WATER	SWSE	Sec. 23, Twp 06N, Rge 05W, PAYETTE 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	
06N 05W 15																39.0	39.0
06N 05W 22	40.0	39.0	35.0		39.0			39.0	39.0			39.0					270.0
06N 05W 23						40.0											40.0

Total Acres: 349

CONDITIONS OF APPROVAL

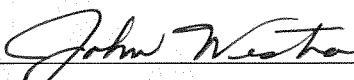
1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Rights 63-3308, 63-3583, 63-7349 and 63-7177 when combined shall not exceed a total diversion rate of 10.54 cfs.
3. This right when combined with 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.
4. The following rights are diverted through the point of diversion located in the SWSE, S23, T06N, R05W: 63-3308, 63-3583, 63-7177 & 63-7349

WATER RIGHT NO. 63-7177
As Modified by Transfer No. 77499

5. The period of use for the irrigation described in this approval may be extended to 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 after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
6. After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. This water right does not authorize the use of federal public lands.
8. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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 20th day of September, 20 11



John Westra, Western Regional Manager

WATER RIGHT NO. 63-7349
As Modified by Transfer No. 77499

In accordance with the approval of Transfer No. 77499, Water Right No. 63-7349 is now described as follows.

Right Holder: BASIN AND RANGE RESOURCE COMPANY LLC
 3480 G S RICHARDS BLVD #101
 CARSON CITY NV 89703

Priority Date: July 07, 1970

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 10/31	1.66 CFS	802.0 AF
			1.66 CFS	802.0 AF

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NWSW	Sec. 23, Twp 06N, Rge 05W, PAYETTE County
GROUND WATER	SESW	Sec. 23, Twp 06N, Rge 05W, PAYETTE County
GROUND WATER	SWSE	Sec. 23, Twp 06N, Rge 05W, PAYETTE 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	
06N 05W 22				40.0									40.0	40.0	40.0	40.0	200.0
06N 05W 23							40.0	40.0	30.0								110.0

Total Acres: 310

CONDITIONS OF APPROVAL

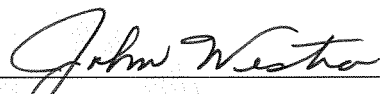
1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Rights 63-3308, 63-3583, 63-7349 and 63-7177 when combined shall not exceed a total diversion rate of 10.54 cfs.
3. This right when combined with 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.
4. The following rights are diverted through the point of diversion located in the SWSE, S23, T06N, R05W: 63-3308, 63-3583, 63-7177 & 63-7349

WATER RIGHT NO. 63-7349
As Modified by Transfer No. 77499

5. The period of use for the irrigation described in this approval may be extended to 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 after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
6. After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. This water right does not authorize the use of federal public lands.
8. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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 20th day of September, 20 11



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

September 21, 2011

BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703

RE: Transfer No.: 77498
 Water Right No(s): 63-3182
 Transfer No.: 77499
 Water Right No(s): 63-7177 & 63-7349

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.

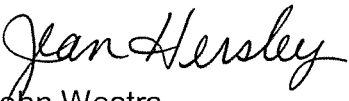
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77498

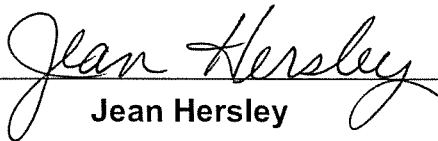
WATER RIGHTS NOS. 63-3182

TRANSFER NO. 77499

WATER RIGHTS NOS. 63-7177 63-7349

**BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703**

**ERO RESOURCES CORP
C/O STEVE HANNULA
3314 GRACE ST
BOISE ID 83703**

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

**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.

MEMORANDUM

TO: Transfer No. 77498
FROM: Kay Walker 
DATE: September 9, 2011
RE: Evaluation of Application

The transfer proposes to add a point of diversion to Water Rights 63-7177 and 63-7349. The proposal was submitted on a short form point of diversion transfer and appears to be eligible for processing without begin advertised.

The site is located in Payette County about 4.5 miles northeast of Parma.

Contact person for the applicant is Steve Hannula of ERO Resources, 373-7983.

Summary of Information Submitted

The applicant is the water right holder of record. The rights are presumed to be valid based on the pending SRBA recommendations. The applicant wishes to add a point of diversion to these rights. There is a lot of history regarding the Basin and Range Resources water rights in the SRBA. See notes in the file for Transfer 77498 that explains some of the history of the rights.

There are overlapping rights at the point of diversion located in the SWSE, Sec. 23, Twp. 6N, Rge. 5W, also known as Well #2. The rights that are also diverted from this well are 63-3583 and 63-3308. When Rt. 63-7349 was licensed it was conditioned to limit the use of water when combined with those rights. That condition will be carried over, into the transfer, so that no enlargement of the rights should occur. There will be no change to the place of use under these rights.