

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**TRANSFER OF WATER RIGHT**  
TRANSFER NO. 76948

This is to certify that: MARIAN E SHAW  
13975 N BROKEN HORN RD  
BOISE ID 83714  
(208) 229-2133

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

**Summary of Water Rights Before the Proposed Change**

| Right   | Origin/Basis | Priority   | Rate     | Volume | Acre Limit | Total Acres | Source    |
|---------|--------------|------------|----------|--------|------------|-------------|-----------|
| 63-2618 | WR/Decreed   | 11/27/1944 | 0.86 cfs | N/A    | N/A        | 46.0        | DRY CREEK |

**Purpose of Transfer (Changes Proposed)**

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|----------------|-------|-----|-----|---------|---------------|---------------|
| 63-2618        | NO    | YES | NO  | NO      | NO            | NO            |

**Summary of Water Rights After the Approved Change**

| Existing Right         | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|------------------------|---------------------------|---------------|-----------------|------------|-------------|-----------------------------|----------------|------------------|----------------------|-----------------------|
| 63-2618                | <b>63-2618</b>            | 0.86 cfs      | N/A             | N/A        | 46.0        |                             | N/A            | N/A              | N/A                  | N/A                   |
| <b>COMBINED TOTALS</b> |                           | 0.86 cfs      | N/A             | N/A        | 46.0        |                             | N/A            | N/A              | N/A                  | N/A                   |

Detailed Water Right Description(s) attached

Dated this 3<sup>rd</sup> day of June, 20 11

  
John Westra, Western Regional Manager

**WATER RIGHT NO. 63-2618**  
**As Modified by Transfer No. 76948**

In accordance with the approval of Transfer No. 76948, Water Right No. 63-2618 is now described as follows.

**Right Holder:** MARIAN E SHAW  
 13975 N BROKEN HORN RD  
 BOISE ID 83714

**Priority Date:** November 27, 1944

**Source:** DRY CREEK

**Tributary:** BOISE RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> |
|-----------------------|-------------|-----------|-----------------------|
| IRRIGATION            | 03/15       | to 11/15  | 0.86 CFS              |
|                       |             |           | 0.86 CFS              |

**LOCATION OF POINT(S) OF DIVERSION:**

DRY CREEK L2 (SWNW) Sec. 31 Twp 05N Rge 02E ADA 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 |        |
| 05N | 02E | 31  |    |    |    |    | 43.0 | 3.0 |    |    |    |    |    |    |    |    |    |    | 46.0   |
|     |     |     |    |    |    |    | 1    | 2   |    |    |    |    |    |    |    |    |    |    |        |

Total Acres: 46

**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. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

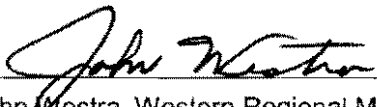
**WATER RIGHT NO. 63-2618**  
**As Modified by Transfer No. 76948**

**CONDITIONS OF APPROVAL**

6. 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 2/16/2007.
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 63-2816 and 63-3160A when combined shall not exceed a total diversion rate of 1.96 cfs and the irrigation of 98 acres.

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 3<sup>rd</sup> day of June, 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](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

June 3, 2011

MARIAN E SHAW  
13975 N BROKEN HORN RD  
BOISE ID 83714

RE: Transfer No.: 76948  
Water Right No(s): 63-2618

**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.

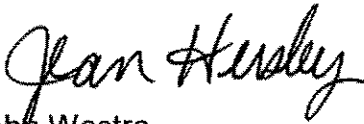
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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

## **CERTIFICATE OF SERVICE**

I hereby certify that on June 6, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 76948**

**WATER RIGHTS NOS. 63-2618**

**MARIAN E SHAW  
13975 N BROKEN HORN RD  
BOISE ID 83714**

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.

# Idaho Statesman

The Newspaper of the Treasure Valley  
IDAHOSTATESMAN.COM

PO Box 40, Boise, ID 83707-0040

RECEIVED

MAY 13 2011

WATER RESOURCES  
WESTERN REGION

## LEGAL PROOF OF PUBLICATION

| Account # | Ad Number  | Identification | PO     | Amount   | Cols | Lines |
|-----------|------------|----------------|--------|----------|------|-------|
| 47628     | 0000549609 | LEGAL NOTICE   | Lesley | \$130.20 | 1    | 64    |

Attention: Denise Buffington

IDAHO DEPT WATER RESOURCE

2735 AIRPORT WAY

BOISE

ID

83705

### LEGAL NOTICE PROPOSED CHANGE OF WATER RIGHT(S)

✓ **James S. Lesley** of 7551 South Flat Lane Kuna, ID 83634 filed Application No. 76872 to transfer one water right with a 1971 priority date from ground water totaling 0.20 cfs. The purpose of the transfer is to change the point of diversion to a new well for irrigation of 10 acres under the right. Water will be used at the current place of use approximately one quarter mile north of the intersection of Poen Rd and Kuna Meridian Rd southeast of Kuna.

✓ **Marian Shaw** of 13975 N. Broken Horn Rd, Boise, ID 83714 filed Application No. 76948 to transfer one water right with a 1944 priority date from Dry Creek totaling 0.85 cfs. The purpose of the transfer is to move the point of diversion downstream approximately 0.25 miles. Water will be used at the current place of use generally located northwest of the intersection of Dry Creek Rd and Broken Horn Rd approximately five miles northeast of Eagle.

### PROPOSED AMENDMENT OF WATER PERMIT

✓ **Lavar Thornton** of 2800 S Tan Mile Rd Kuna ID 83634 filed Application No. 76675 to amend a water permit with a 2008 priority from ground water totaling 3.3 cfs for irrigation. The permit provides irrigation water for property located east of S Cloverdale Rd between Kuna Mora Rd and the railroad tracks north of Barker Rd. The applicant proposes to amend the permit to add a new well as a point of diversion.

Please see [www.idwr.idaho.gov/apps/ExtSearch/WRfiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRfiling.asp) for a full description of the right and the proposed transfer(s). 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 May 23, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director  
Pub. May 5, 12, 2011

0000549609-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 05/05/2011

Ending issue of: 05/12/2011

*Janice Hildreth*  
(Legal Clerk)

STATE OF IDAHO )

.SS

COUNTY OF ADA )

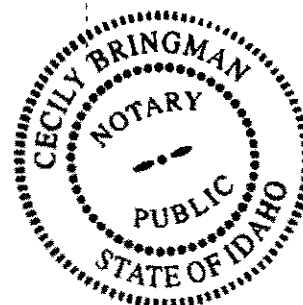
On this 12 day of May in the year of 2011 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

*Cecily Brang*

Notary Public for Idaho  
Residing at: Boise, Idaho

My Commission expires:

8-27-15



✓ ok DB 5/26/2011