

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77040

This is to certify that: DON D BECKER
31237 HOT CREEK RD
BRUNEAU ID 83604
(208) 845-2972

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>
51-2209	WR/Decreed	03/25/1966	6.4 cfs	1272 af	318.0	585.0	GROUND WATER
51-2210	WR/Decreed	03/25/1966	5.64 cfs	1092 af	267.0	585.0	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>
51-2209	NO	NO	YES	NO	NO	NO
51-2210	NO	NO	YES	NO	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>
51-2209	51-2209	6.36 cfs	1272 af	318.0	585.0		N/A	N/A	N/A	N/A
51-2210	51-2210	5.34 cfs	1068 af	267.0	585.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		8.07 cfs	2340 af	N/A	585.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 5th day of May, 20 11


John Westra, Western Regional Manager

SUPPORT DATA

IN FILE # 51-2209

WATER RIGHT NO. 51-2209
As Modified by Transfer No. 77040

In accordance with the approval of Transfer No. 77040, Water Right No. 51-2209 is now described as follows.

Right Holder: DON D BECKER And
 MARILYN BECKER
 31237 HOT CREEK RD
 BRUNEAU ID 83604

Priority Date: March 25, 1966

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	6.36 CFS	1,272.0 AF
			6.36 CFS	1,272.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWNESE	Sec. 1	Twp 07S	Rge 05E	OWYHEE County
GROUND WATER	SWSESE	Sec. 1	Twp 07S	Rge 05E	OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	05E	1			38.0	39.0					37.0		34.0	40.0	39.0	39.0	39.0	39.0	344.0
07S	05E	12	35.0	40.0	40.0	40.0													155.0
07S	06E	6					5.0	36.0			5.0								46.0
07S	06E	7					L 4	L 5			L 6								40.0
								40.0											
								L 2											

Total Acres: 585

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. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.

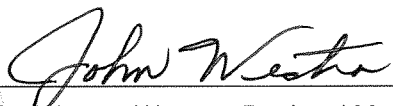
WATER RIGHT NO. 51-2209
As Modified by Transfer No. 77040

CONDITIONS OF APPROVAL

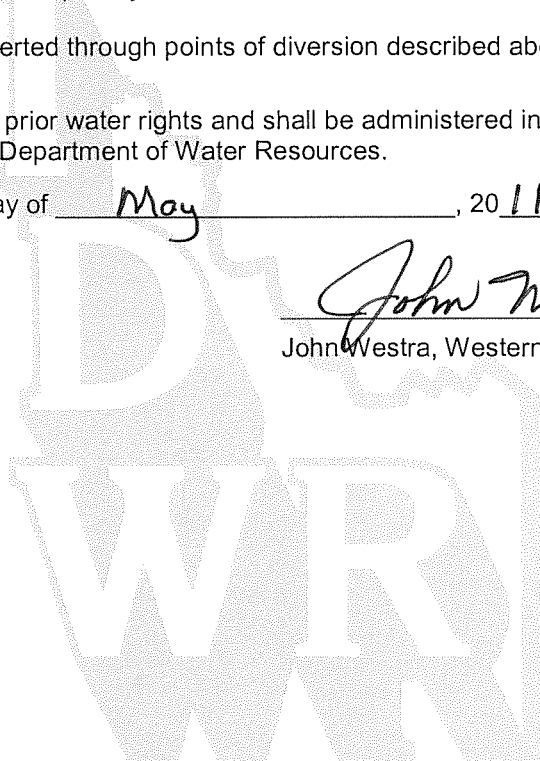
5. This right is limited to the irrigation of 318 acres within the authorized place of use in a single irrigation season.
6. Rights 51-2209 and 51-2210 when combined shall not exceed a total diversion rate of 8.07 cfs, a total annual maximum diversion volume of 2340 afa and the irrigation of 585 acres.
7. 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 12/1/2000.
8. The following rights are diverted through points of diversion described above: 51-2209 and 51-2210.

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 5th day of May, 2011



John Westra, Western Regional Manager



WATER RIGHT NO. 51-2210
As Modified by Transfer No. 77040

In accordance with the approval of Transfer No. 77040, Water Right No. 51-2210 is now described as follows.

Right Holder: DON D BECKER And
 MARILYN BECKER
 31237 HOT CREEK RD
 BRUNEAU ID 83604

Priority Date: March 25, 1966

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	5.34 CFS	1,068.0 AF
			5.34 CFS	1,068.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWNESE	Sec. 1	Twp 07S	Rge 05E	OWYHEE County
GROUND WATER	SWSESE	Sec. 1	Twp 07S	Rge 05E	OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	05E	1			38.0	39.0					37.0		34.0	40.0	39.0	39.0	39.0	39.0	344.0
07S	05E	12	35.0	40.0	40.0	40.0													155.0
07S	06E	6					5.0	36.0			5.0								46.0
07S	06E	7					L 4	L 5			L 6								40.0
								40.0											
								L 2											

Total Acres: 585

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. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.

WATER RIGHT NO. 51-2210
As Modified by Transfer No. 77040

CONDITIONS OF APPROVAL

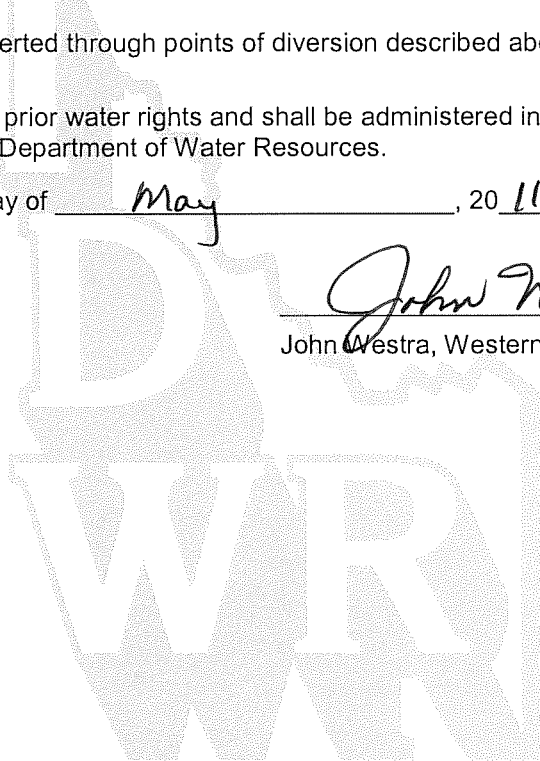
5. This right is limited to the irrigation of 267 acres within the authorized place of use in a single irrigation season.
6. Rights 51-2209 and 51-2210 when combined shall not exceed a total diversion rate of 8.07 cfs, a total annual maximum diversion volume of 2340 afa and the irrigation of 585 acres.
7. 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 12/1/2000.
8. The following rights are diverted through points of diversion described above: 51-2209 and 51-2210.

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 5th day of May, 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

May 5, 2011

DON D BECKER

And

MARILYN BECKER

31237 HOT CREEK RD

BRUNEAU ID 83604

RE: Transfer No.: 77040
Water Right No(s): 51-2210 51-2209

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,

A handwritten signature in black ink, appearing to read "Jean Hersley". The signature is fluid and cursive, with the first name "Jean" and last name "Hersley" clearly distinguishable.

FOR John Westra

Western Regional Manager

Enclosure(s)

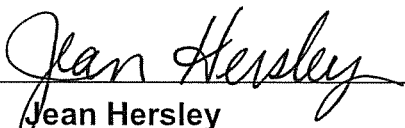
CERTIFICATE OF SERVICE

I hereby certify that on May 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. 77040
WATER RIGHTS NOS. 51-2210 51-2209

DON D BECKER
31237 HOT CREEK RD
BRUNEAU ID 83604

MARILYN BECKER
31237 HOT CREEK RD
BRUNEAU ID 83604



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.

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

MAY 03 2011

WATER RESOURCES
WESTERN REGION

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

APRIL 6, 13, 2011

SIGNED: _____

Robert E. Aman

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 28 day of Apr in the year of 2011 before me, a

Notary Public, personally appeared ROBERT E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho

Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2015

PROPOSED CHANGE OF WATER RIGHTS

Don Becker of 31237 Hot Creek Rd., Bruneau, Idaho, 83604, filed Application No. 77040 to transfer two water rights with 1966 priority dates from ground water totaling 8.07 cfs. The purpose of the transfer is to change the permissible place of use boundary and move 0.10 cfs and 5 acres of irrigation to another location about 0.75 miles north. The new place of use is contiguous with the current 585-acre permissible place of use. There are no changes proposed to the points of diversion or delivery system. The water will continue to be used in the same general area, about three miles south of Bruneau, Idaho.

Please 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 April 25, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim
Director
4/6,13/11

✓ Vol DB
5/3/2011

MEMORANDUM

TO: Transfer No. 77040 File

FROM: Vicky Music

DATE: March 22, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change the permissible place of use [PPU] boundary by moving five acres irrigation of right nos. 51-2209 and 51-2210, to another parcel owned by the applicant. The five acres to be transferred are in a QQ corner not reached by a pivot. The new place of use is contiguous with the current place of use [POU] and is part of the same diversion and delivery system so no split is necessary. No other changes are proposed.

The site is 3 miles south of Bruneau, Idaho, in Owyhee County
Contact person is the applicant.

Deviations from Transfer Policy Standards

The application was missing some answers to items, such as the purpose of the transfer Part 1(A)(1), both rights in the PPU were not listed in Part 1(B)(1), 3 of the 4 questions in Part 1(B)(5)(f) were not answered because the applicant did not understand them, the Part 2A proof reports were not included, and the box was not checked regarding the plat map in Part 3A.

I added the proof reports and the applicant came into the office and corrected the other deficiencies.

The combined quantity of the rights is 8.07 cfs. The transfer fee for this quantity is \$570. However, the fee was prorated based on the quantity being transferred which is 0.10 cfs for five acres irrigation. So, the fee paid was \$100.

There are no other deviations that should delay the processing of this transfer.

Summary of Information Submitted

Authority to File:

The applicant is the owner of record of the rights to be transferred and he owns both the original and new place of use. He has the authority to file this transfer.

Water Right Validity:

The SRBA Court issued the partial decrees for these rights in 2000. Aerial photographs for 2004, 2006 and 2009 confirm beneficial use although it looks like the pivot was installed sometime between 2000 and 2004 so this corner does not look irrigated in these later aerials. However, the rights are presumed to be valid per the aerials.

Injury to Other Water Rights:

These rights are in the Bruneau-Grandview Ground Water Management area. This transfer, if approved, is not expected to have an impact on the groundwater or other rights because the POD and delivery system remains the same, and there is no change to the water right other than a change to the permissible place of use boundary.

Enlargement of Use:

The transfer does not propose an enlargement of the diversion rate, diversion volume or consumptive use volume and none is expected.

Local Public Interest:

There are local public interest issues because these rights are in the Grandview-Bruneau Ground Water Management area and in the Snake River Trust water boundary. However, there is not expected to be any public interest impacts because no new well in the GWMA is proposed and the nature of the transfer proposal makes it exempt from trust water processing.

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 and Discussion

During transfer processing, errors in the quantity decreed in 51-2210 was discovered. It appears the errors were made during the SRBA. The right was reduced from the 282 acres originally licensed to the 267 that could be irrigated. However, no pro rata reduction in quantity was made. The quantity licensed, recommended and decreed was 5.64 cfs and 1092 afa and it should have been recommended and decreed at 5.34 cfs and 1068 afa. The total combined rate was correctly decreed as 8.07 cfs but the annual volume was decreed as 2364 afa. The volume should have been 2340 afa. The errors will be corrected in this transfer.

The applicant does not have to submit an additional information to comply with transfer policy requirement. No additional IDWR analysis is needed from other programs and the application will not be parallel processed.

There is no Basin 51 Watermaster so comments will not be solicited. There is no need to solicit comments from anyone else.

The partial decrees were migrated to wr records and data entry affected the correct wr record. SRBA status was provided in a previous section of this memo.

There are no overlapping rights at the POD or the existing or proposed POU.

There are no mitigation or Water Bank issues.

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.