

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77067

This is to certify that: HANGING VALLEY RANCH INC
C/O LEON CARSON
1625 ANNETT ST
BOISE ID 83705
(208)344-4070

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>
65-2803X	WR/Decreed	05/27/1965	0.65 cfs	N/A		82.0	BURN CREEK
65-7149	WR/Decreed	07/29/1970	0.5 cfs	N/A		65.0	BURN CREEK
65-23230	WR/Decreed	05/27/1965	0.06 cfs	7.2 af			BURN CREEK

Purpose of Transfer (Changes Proposed)

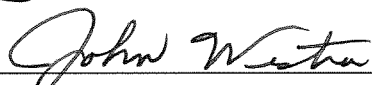
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-2803X	NO	YES	NO	NO	NO	NO
65-7149	NO	YES	NO	NO	NO	NO
65-23230	NO	YES	YES	NO	NO	NO

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>
65-2803X	65-2803X	0.65 cfs	N/A	N/A	40.5		N/A	N/A	N/A	N/A
65-7149	65-7149	0.16 cfs	N/A	N/A	40.5		N/A	N/A	N/A	N/A
65-23230	65-23230	0.06 cfs	7.2 af	N/A			N/A	N/A	N/A	N/A
COMBINED TOTALS		0.87 cfs		N/A	40.5		N/A	N/A	N/A	N/A

Detailed Water Right Descriptions attached

Dated this 5th day of May, 2011


John Westra, Western Regional Manager

SUPPORT DATA

IN FILE # 65-2803X

[illegible]

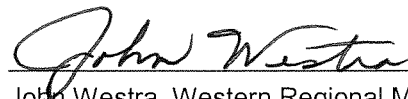
WATER RIGHT NO. 65-2803X
As Modified by Transfer No. 77067

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. 65.
5. Upon specific notification by the Department, 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.
6. 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.
7. The right holder shall cease irrigation of 41.5 acres previously authorized under this right, and consolidate use of water on the remaining 40.5 acres.
8. The period of use for the irrigation described in this approval may be extended to an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 4/23/2001.
9. Rights 65-2803X and 65-7149 when combined shall not exceed the irrigation of 40.5 acres.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
11. The following rights are diverted through point of diversion described above: 65-2803X, 65-7149 and 65-23230.
12. The recreation components are ponds used for recreational fishing.

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

WATER RIGHT NO. 65-7149
As Modified by Transfer No. 77067

In accordance with the approval of Transfer No. 77067, Water Right No. 65-7149 is now described as follows.

Right Holder: HANGING VALLEY RANCH INC
 C/O LEON CARSON
 1625 ANNETT ST
 BOISE ID 83705

Priority Date: July 29, 1970

Source: BURN CREEK

Tributary: SOUTH FORK PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/15	0.16 CFS	
			0.16 CFS	

LOCATION OF POINT OF DIVERSION:

BURN CREEK SESW Sec. 29, Twp 10N, Rge 10E, BOISE 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	
10N	10E	29												5.4					5.4
10N	10E	31	1.0			3.8													4.8
10N	10E	32					7.8	15.5	7.0										30.3

Total Acres: 40.5

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. 65.
5. Upon specific notification by the Department, 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.

WATER RIGHT NO. 65-7149
As Modified by Transfer No. 77067

6. 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.
7. The right holder shall cease irrigation of 24.5 acres previously authorized under this right, and consolidate use of water on the remaining 40.5 acres.
8. The period of use for the irrigation described in this approval may be extended to an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 4/23/2001.
9. Rights 65-2803X and 65-7149 when combined shall not exceed the irrigation of 40.5 acres.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
11. The following rights are diverted through point of diversion described above: 65-2803X, 65-7149 and 65-23230.

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

WATER RIGHT NO. 65-23230
As Modified by Transfer No. 77067

In accordance with the approval of Transfer No. 77067, Water Right No. 65-23230 is now described as follows.

Right Holder: HANGING VALLEY RANCH INC
 C/O LEON CARSON
 1625 ANNETT ST
 BOISE ID 83705

Priority Date: May 27, 1965

Source: BURN CREEK

Tributary: SOUTH FORK PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	to 12/31	0.06 CFS	7.2 AF
			0.06 CFS	7.2 AF

LOCATION OF POINT OF DIVERSION:

BURN CREEK SESW Sec. 29, Twp 10N, Rge 10E, BOISE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	10E	31	X			X													
10N	10E	32						X											

CONDITIONS OF APPROVAL

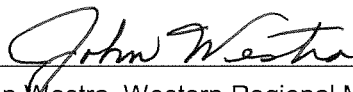
1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho 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. 65.
5. The quantity of water decreed for this water right is not a determination of historical beneficial use.
6. Domestic use is for 6 cabins.

WATER RIGHT NO. 65-23230
As Modified by Transfer No. 77067

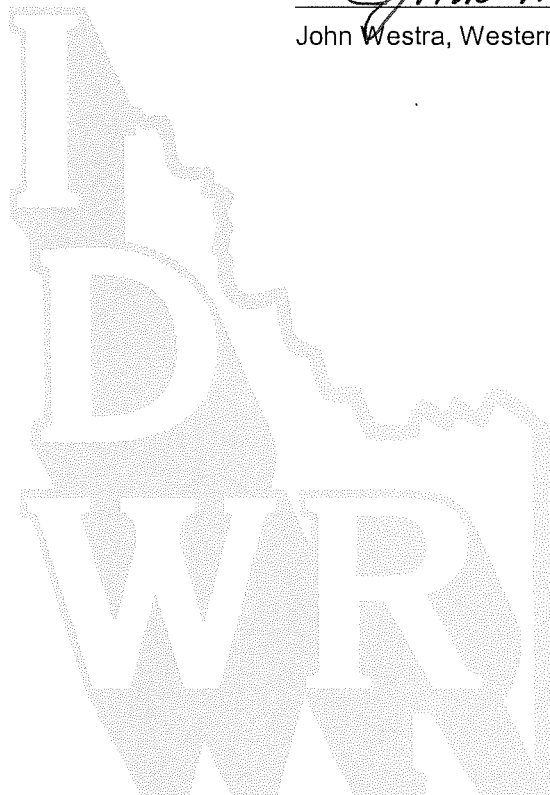
7. The following rights are diverted through point of diversion described above: 65-2803X, 65-7149 and 65-23230.

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

HANGING VALLEY RANCH INC
C/O LEON CARSON
1625 ANNETT ST
BOISE ID 83705

RE: Transfer No.: 77067
Water Right No(s): 65-2803X 65-7149 65-23230

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.

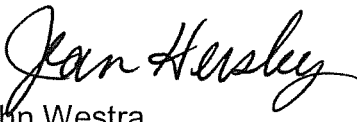
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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

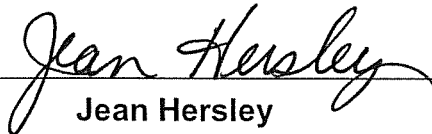
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on 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. 77067
WATER RIGHTS NOS. 65-2803X 65-7149 65-23230

HANGING VALLEY RANCH INC
C/O LEON CARSON
1625 ANNETT ST
BOISE ID 83705

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.

RECEIVED

APR 15 2011

WATER RESOURCES
WESTERN REGION

Via E-mail

State of Idaho

Department Of Water Resources

Transfer of Water Right(s)

RECOMMENDATION FORM

Transfer Application No.: 77067 **Water Right No(s):** 65-2803X

Transfer Applicant's Name: HANGING VALLEY RANCH INC
C/O LEON CARSON
1625 ANNETT ST
BOISE, ID 83705

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) Additional comments:

Dated this 15th day of April, 2011

Water District No. 65

Ken Shurtliff
Watermaster's Signature

Ken Shurtliff
Printed Name

SCANNED

APR 19 2011

The Idaho World

P.O. Box 50248
Boise, ID 83705
(208) 429-1606

RECEIVED

MAR 29 2011

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

Teri Hart, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with March 16, 2011 and ending with the issue of March 23, 2011.

Teri Hart

State of Idaho)
County of Ada)

On this 28th day of March in the year 2010, before me, a notary public, personally appeared Teri Hart known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Douglas A. Rotman

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 03-Aug-13

PROPOSED CHANGE OF WATER RIGHTS

Hanging Valley Ranch Inc. of 1623 Annett St., Boise, ID, 83705, filed Application No. 77067 to transfer 3 water rights with 1965 and 1970 priority dates from Burn Creek tributary to the South Fork Payette River totaling 0.87 cfs. The purpose of the transfer is to change all of the ranch points of diversion to the southern point that was previously decreed. The northern point of diversion will be used by the homeowners only after this change. The transfer will also correct the domestic place of use. Water will be used at the current place of use approximately 16 miles northeast of Lowman on the north side of Highway 21 and northeast of the Warm Springs Landing Strip.

Please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the rights 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 4, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Published in the Idaho World March 16 and 23, 2011. DOW 33

✓ OK DB 4.8.2011

DOUGLAS A. ROTMAN
NOTARY PUBLIC
STATE OF IDAHO

MEMORANDUM

TO: Transfer No. 77067

FROM: Kay Walker *Kay*

DATE: March 9, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change the point of diversion for Hanging Valley Ranch water rights to the southern point of diversion that was decreed for Rts. 65-2803X and 65-7149. The Hanging Valley Homeowners Association will have sole access to use the northern point of diversion that was decreed under Rts. 65-2803A (subsequently split into 65-23230 and 65-23231 by ownership change), 65-2803X and 65-7149. The transfer proposes to separate the diversion points in order to allow separate special use permit applications for the diversion on lands owned by the USFS. The USFS requested this be done so they could manage the special use permits by individuals rather than multiple parties pursuant to conversations with Pete Edmunds. Mr. Edmunds owns a couple of the lots in subdivision and is a good friend of Mr. Carson. He was assisting Mr. Carson with the paperwork since Mr. Carson is over 90 years old. During this process the transfer will also be used to correct the historic place of use for the domestic purpose. The 6 domestic uses under 65-23230 are old cabins that can be seen on the topographical map attached to the application. The place of use had been recommended for decree as the domestic place of use for the homeowners association so this change is just a correction of the partial decree.

The site is approximately 16 miles northeast of Lowman on the north side of Highway 21; northeast of the Warm Springs Landing Strip.

Summary of Information Submitted

The application appears to be in order to process. No change was anticipated for the place of use of the irrigated acreage from the decreed location. The points of diversion are the same as decreed, just being separated for ease in obtaining USFS special use permits and clarification of the way the water rights are being used.

Authority to File:

Applicant is water right holder of rights involved in the transfer. We have obtained a warranty deed showing that the land where domestic use is occurring is owned by applicant since it involves an addition of legal descriptions to the

decreed rights. The applicant owns lands outside of the subdivision boundary. This is easy to understand when viewing tax lot information of this area so I have attached a map with these areas shown (attachment 1).

Water Right Validity:

The rights are presumed to be partially valid. Recent beneficial use was confirmed via 2004 and 2009 aerial photography (attachments 2 & 3). The rights were decreed in 2001 as they were decreed in the Payette River Adjudication. It does not appear they have gone more than 5 years of complete non-use but I found that there was no way the irrigation use was being used to full potential. Both Pete Edmunds (lot owner in subdivision) and Paul Kunz (President of homeowner's association) have indicated that the meadows have been continually irrigated during our conversations regarding this property. However, the irrigation water is not used in, or northwest of, the subdivision property. In light of this and in review of acres actually being irrigated the place of use will be reduced from 82 acres to 40.5 acres. Some of the irrigated place of use has trees on it and is irrigated to protect the subdivision lots from potential fires.

Injury to Other Water Rights:

There will be no injury to other water rights. The irrigated lands are being reduced and the domestic place of use is just being corrected to the historical location. The quantity of water under the rights will be reduced accordingly.

Enlargement of Use:

No enlargement of use will occur. In fact the irrigated acreage will be reduced and there will be more water available for others.

Local Public Interest:

It is within the local public interest to allow the points of diversion to be split between water users and the correction/reduction in the place of use of these rights.

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.

Discussion

Watermaster comments will be solicited. It is uncertain whether the watermaster actually controls diversions in this area.

Data entry affected the correct record. The water rights were decreed and migrated long before the transfer application was submitted.

There are no overlapping rights at the point of diversion &/or place of use after the transfer is finalized. The northern point of diversion is currently in use by the homeowners and the ranch will use the southern point of diversion.

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.

10N, 10E

home association

30 29
31 32

↑
Hanging Ranch
Valley

Attachment 1