

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 75529)
)
GREGORY AND JULIE DEVRIES,)
 Applicants)
)
DUWAYNE KIMBALL,)
 Protestant)

)

PRELIMINARY ORDER

On July 17, 2008, Gregory and Julie DeVries (“DeVries/applicant”) filed with the Department of Water Resources (“IDWR/Department”) an application to transfer the public waters of the State of Idaho.

Application for Transfer No. 75529 seeks a change in the points of diversion, place of use, season of use, and a change in the nature of use from irrigation to stockwater and commercial purposes for a portion of three water rights currently used for irrigation (dry up 11.6 acres). These proposed changes are associated with expansion of use at an existing small dairy. The small dairy is currently operated under a domestic and stockwater right which is intended to be incorporated into the enlarged delivery system at the dairy.

The application was advertised and the IDWR received a protest against the approval of said application from DuWayne Kimball (“Kimball/protestant”).

On August 27, 2009, IDWR conducted a pre-hearing conference into this matter. DeVries appeared by and through their attorney, Gary Slette. Kimball represented himself. At the conference the parties agreed to set a hearing but further agreed to work on a stipulation to avoid a hearing.

IDWR scheduled a hearing for October 6, 2009, but later cancelled the hearing by order dated October 1, 2009, after receiving a stipulated agreement from the parties on September 28, 2009.

The parties stipulated that the applicant’s three (3) exhibits and the protestant’s nine (9) exhibits would be offered into the record without objection. The parties waived their right to a hearing and agreed that the hearing officer may decide the matter without a formal hearing or oral argument. The parties further agreed that the only issue in

dispute was whether or not the proposed transfer would injure other water rights. The parties agreed that the other criteria to be considered by the Department pursuant to Idaho Code §42-222 had been satisfied. The exhibits considered by the hearing officer pursuant to the stipulated agreement are as follows:

Applicant's Exhibits	Description
1	Application for Transfer No. 75529 and such other documents as were submitted with the application
2	Multiple Well Effects Analysis of Transfer No. 75529 prepared by Brockway Engineering dated August 27, 2009
3	Map showing well locations in Section 2, T11S, R14E and surrounding area

Protestant's Exhibits	Description
A	Notice of Protest
B	Well Driller's reports for Duffy, Duelke and Murphy
C	Map showing Twin Falls Groundwater Management Area
D	Hydrograph for well 10S14E-07DDA1
E	Technical report entitled "Geohydrology and Development of a Steady State Ground-Water Model for the Twin Falls, Idaho Area" by Donna M. Cosgrove and others
F	Technical report entitled "Development of a Transient Ground-Water Model for the Twin Falls Area, Idaho Area" by Donna M. Cosgrove and others
G	September, 2009, letter from Nancy Murphy regarding why she drilled a new well
H	August, 2009, letter from Bruce Duffy regarding why he drilled a new well
I	May, 1999, Application for Abandonment of Well, filed by Eaton Drilling regarding Duelke well

Upon issuance of the order cancelling the hearing the hearing officer requested a staff memorandum be prepared to evaluate Transfer No. 75529 and the documents submitted by the parties as exhibits. On December 16, 2009, the hearing officer received a staff memorandum prepared by Mike McVay from the hydrology section of the Department. After initial review of the December 16, 2009, staff memorandum the hearing officer sought clarification of the staff review. Mr. McVay supplemented the record with his memorandum dated January 8, 2010. On March 1, 2010, the hearing officer provided copies of these staff memorandums to the parties and provided the parties opportunity to review and provide written rebuttal by March 17, 2010. No rebuttal has been received. Both staff memorandums from Mike McVay were considered in this matter.

On November 10, 2009, DeVries notified the Department to send all further communication regarding this matter directly to them and not through their attorney.

After considering the evidence provided by the parties and other available information including records of the department, the hearing officer finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Application for Transfer No. 75529 proposes the transfer of portions of three water rights recommended in the Snake River Basin Adjudication that represent the unchanged portions of rights held by Mathers Ranch Inc. that have been split by numerous previous transfers. The unchanged portions of the water rights remaining at the Mathers Ranch are presently described in the records of the IDWR as follows:

Recommended Water Right no. 47-17476

Source:	Ground Water
Priority Date	August 8, 1954
Purpose of Use:	Irrigation
Flow Rate:	1.90 cfs (832.4 AFA)
Point of Diversion:	SWNW ¹ Section 32 T11S, R18E
	SWNE Section 31 T11S, R18E
	SWSW Section 32 T11S, R18E
Place of Use:	208.1 acres in a 228.7 acre permissible place of use located in Sections 31 and 32, T11S, R18E

Recommended Water Right no. 47-17478

Source:	Ground Water
Priority Date	November 6, 1961
Purpose of Use:	Irrigation
Flow Rate:	4.18 cfs
Point of Diversion:	Same as 47-17476 listed above
Place of Use:	228 acres in the same PPU listed above

Recommended Water Right no. 47-17480

Source:	Ground Water
Priority Date	April 3, 1961
Purpose of Use:	Irrigation
Flow Rate:	0.29 cfs
Point of Diversion:	Same as 47-17476 listed above

¹ Public land survey descriptions in this decision without a fraction following a two alpha character descriptor are presumed to be followed by the fraction "1/4." In addition, all public land survey descriptions are presumed to be based on the Boise Meridian. All locations are in Twin Falls County.

Place of Use: 105.1 acres in the same PPU listed above

Rights 47-17476, 47-17478 and 47-17480 in combination are limited to a total of 4.18 cfs, 914.8 acre feet per annum and irrigation of 228.7 acres in any one season.

2. Application for Transfer No. 75529 additionally proposes to add a point of diversion to the existing right at the dairy site owned by the applicant and presently described in the records of the IDWR as follows:

Decreed Water Right no. **47-16331**
Source: Ground Water
Priority Date: December 16, 1980
Purpose of Use: Stockwater and Domestic
Flow Rate: 0.04 cfs
Point of Diversion: SENE Section 9 T10S, R14E
Place of Use: SENE Section 9 T10S, R14E

3. Application for Transfer No. 75529 proposes that the above domestic and stockwater right and portions of the irrigation rights being purchased from the Mathers Ranch be diverted as follows:

Source: Ground Water
Points of Diversion: SENE(Existing Well) Section 9 T10S, R14E
SENE(Existing Well) Section 9 T10S, R14E
SENE(New Well) Section 9 T10S, R14E

Water Right No.	Use	Rate (cfs)	Volume (AFA)
47-16331	Domestic Stockwater	0.04	14.6
47-17476(Part)	Commercial Stockwater	0.10*	31.7**
47-17478 (Part)	Commercial Stockwater	0.21*	35.0**
47-17480(Part)	Stockwater	0.02*	7.4**
Total		0.25	49.6

*In combination limited to 0.21 cfs

** In combination limited 35.0 AFA

Place of Use: Dairy and Domestic use all within SENE Section 9, T10S, R14E.

The portions of Rights No. 47-17476, 47-17478 and 47-17480 being converted to stockwater and commercial use represents 11.6 acres currently irrigated by these rights. These 11.6 acres are proposed to be permanently dried up under these rights at the Mathers Ranch.

4. The site of the dairy and the site of the Mathers Ranch are underlain by the regional aquifer locally known as the Twin Falls aquifer contained primarily in Quaternary and Tertiary basalts whose dominant source of water is recharge from irrigation on the Twin Falls tract. Recharge of the aquifer to a lesser degree comes from relatively minor underflow from the Murtaugh area, under flow from Rock Creek, Dry Creek and Salmon Falls Creek as well as precipitation in the winter. Ground water levels fluctuate in an annual cycle responding to recharge from surface water irrigation. The ground water generally flows from south to north.

5. The regional aquifer in the basalts overlies a geothermal aquifer in the Idavada rhyolites. The geothermal aquifer is the subject of the Twin Falls Ground Water Management Area created in 1984. Further development of this geothermal aquifer has been limited. This ground water management area was created due to concerns about declining heads or pressures in the low temperature geothermal aquifer. This transfer is presumed to not be associated with the geothermal aquifer and is associated with the upper cold water regional aquifer.

6. Department records indicate that the closest recorded water right to the DeVries wells is water right no. 47-14967 in the name of Robert and Colleen Leitch located approximately ¼ mile northwest of the DeVries site. This right is for domestic purposes with a priority of September 1, 1947. Robert and Colleen Leitch are not parties to these matters.

7. Department records indicate that the protestant has recorded decreed water right no. 47-10987 located approximately 5 miles southeast of the DeVries site. This right is for domestic and stockwater purposes with a priority of October 1, 1945.

8. In the late 1990's the City of Twin Falls contracted with the Idaho Water Resources Research Institute of the University of Idaho ("IWRRI") to develop a steady state and transient ground water model for the Twin Falls aquifer area. The purpose of this modeling effort was to represent the then current hydrologic conditions of the city and surrounding area and to be used as a planning tool for the City of Twin Falls. Exhibits "E" and "F" are the technical reports prepared by IWRRI for this effort. IDWR does not run this model.

9. Use of the Theis (1935) analysis may be used to estimate potential impacts to neighboring wells as a result of pumping water at the DeVries wells.

10. Brockway Engineering (Brockway), compiled information about existing wells near the DeVries site. Using the data gathered, Brockway estimated characteristics of the aquifer around the site. Using the derived characteristics as input for the Theis equation, Brockway and IDWR staff (Mike McVay) estimated drawdown impacts for the transfer. The predicted drawdowns for various distances and times resulting from the Theis equation simulations are depicted in Exhibit No. 2 and the two IDWR staff memorandums.

11. The maximum drawdowns predicted by the simulations on the neighbor's wells within ¼ mile is 0.35 feet after two years of pumping under the water rights being transferred from the Mathers Ranch to the DeVries site. The drawdown predicted by the simulations on the protestant's well located approximately 5 miles away is less than 0.01 feet.

12. DeVries have been granted Confined Animal Feeding Operation (CAFO) permits by Twin Falls County for the proposed dairy. The dairy is authorized for 1120 total animal units.

13. DeVries operate an existing dairy at the site utilizing standard water use practices.

14. IDWR records indicate domestic wells exist from ¼ mile and beyond of the DeVries dairy site. The priorities of the domestic wells vary, with many having pre-1978 priorities.

15. Operation of a dairy is associated with agricultural purposes.

16. The transfer in part is based on the change in nature of use of portions of rights No. 47-17476, 47-17478 and 47-17480 from irrigation of 11.6 acres to stockwater and commercial use. The applicant provided historical crop data showing alfalfa was grown. Consistent with IDWR policy, IDWR employee Benny Walker determined that 3.02 acre-feet per acre was the highest annual consumptive use for the mix of crops grown for the acres intended to be dried up. The value of 3.02 acre-feet per acre is the limiting volume allowed for conversion from irrigation to other fully consumptive uses to prevent enlargement of the consumptive use of the rights. Based on the 3.02 acre-feet per acre value, it is calculated that 11.6 acres would yield 35.0 acre-feet per annum without enlarging the water use.

ANALYSIS

The major concern of the protestant is centered on the potential of the water use at the dairy negatively impacting water levels in the area, thus, resulting in injury to existing ground water users.

The protestant provided reports by IWRRI that characterize the ground waters in the Twin Falls tract area. These reports were specifically written for the City of Twin Falls for planning purposes to evaluate the effects of pumping large municipals wells around the city and to evaluate recharge sites in the same area. Additionally, the reports incorporate estimates of the impact from the conversion of surface water application for irrigation from gravity to sprinkler. The estimate focused on increasing sprinkler usage from the then 10% to a future 30%. It is important to note that although the estimate was averaged over the study area and was not exactly site specific, the results are very significant in that the potential impact of this conversion scenario resulted in ground water decline estimates in the range of 20 to 25 feet in some areas. It is also significant

that the reports were written in the late 1990s. Contemporary estimates by the Department and other information provided to the Department for planning and modeling purposes by others including the Twin Falls Canal Company, IWRRI, and the US Department of Agriculture Agricultural Research Service put current estimates of sprinkler use on the Twin Falls tract in the range of 25% to 37% in the time frame of 2004 to 2006. With this perspective the hearing officer has reviewed the protestant's exhibits that confirm incidences of well problems. The hearing officer is inclined to believe that localized conversion from gravity irrigation to sprinkler irrigation may be the root of many declining well problems.

Since many of the ground water users on the Twin Falls tract are "domestic" in nature with pre-1978 priorities, this subset of "domestic" well users may qualify for protection as outlined in the *Parker v. Wallentine* court case (103 Idaho 506, 650 P.2d 648 (1982)). The hearing officer understands that application of the *Parker* case should not prevent approval of ground water transfers or drilling of new domestic wells in the Twin Falls tract by establishing a de facto moratorium. Rather, the hearing officer understands that application of this type of protection is driven by very fact specific data involving the need of pre-1978 "domestic" ground water users to modify wells or pumping systems directly caused by pumping of junior priority wells adjacent to these pre-1978 "domestic" users. If it can be demonstrated that the pre-1978 "domestic" well users must modify their systems as a result of the adjacent junior well users, the junior users responsible must compensate or mitigate for the expenses of the modifications. Evidence does not exist in the present matter to support the need to modify any pre-1978 "domestic" well system as a result of the proposed transfer.

The hearing officer has focused on the specific potential impact from the movement of 35 acre-feet/annum to the site of the dairy. This potential is best analyzed by the Theis analysis, which produces results the hearing officer finds not likely to require the modification of nearby pre-1978 domestic wells or to injure other ground water rights in the area of the DeVries site.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 states, in pertinent part:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water

originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right. The director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area.

2. The applicant bears the burden of proof for all of the factors listed in Idaho Code § 42-222.

3. Idaho Code § 42-111 states, in pertinent part:

1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

4. Idaho Code § 42-226 states, in pertinent part:

The traditional policy of the state of Idaho, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the ground water resources of this state as said term is hereinafter defined and, while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources.

5. The Idaho Supreme Court ruled in *Parker v. Wallentine*, 103 Idaho 506, 650 P.2d 648 (1982) " that domestic wells drilled prior to 1978 are exempt from the provisions of Idaho Code § 42-226." In other words, the concept of reasonable pumping levels cannot be applied to domestic wells drilled before 1978.

6. In *Parker* the Idaho Supreme Court determined that a later-in-time appropriator should be enjoined from pumping ground water for irrigation where the pumping almost immediately dried up a domestic well located nearby. The Court held that the water right for the domestic well was perfected prior to the irrigation water right and before the reasonable pumping level standard was applied to domestic uses by the

Legislature in 1978, and that the domestic water right holder was entitled to the protection of the ground water pumping level existing prior to pumping by the junior appropriator. The Court held that the injunction was not permanent, and could be absolved upon compensation by the junior appropriator for the expenses incurred by the senior appropriator.

7. The extent to which *Parker* provides protection to the protestant's water right or any other pre-1978 domestic well user depends on proof of injury and similarities to the facts of the *Parker* case.

8. In an administrative hearing for an application to appropriate water or for transfer, the applicant bears the burden of proving that the proposed use of water will not injure other water rights. If a protestant seeks the protection of *Parker v. Wallentine* that would insulate the protestant from the reasonable pumping level standard of the Ground Water Act, the protestant must come forward with evidence that: (1) the protestant is the holder of a domestic water right that is not subject to the reasonable pumping standard of the Ground Water Act, and (2) the protestant's diversion equipment and facilities are capable of diverting the protestant's water right at the ground water levels at or about the time the application is being considered. Once the protestant comes forward with the information, the applicant ultimately bears the burden of proving that the proposed use of water will not injure the protestant under the *Parker v. Wallentine* standard. If there is additional factual evidence necessary to establish the extent of injury which can best be provided by that party seeking *Parker v. Wallentine* protection, that party shall be required to provide the evidence.

9. Approval and completion of proposed transfer No. 75529 will not injure other water rights and is not likely to require modification of any pre-1978 domestic well.

10. Approval and completion of the proposed transfer will not enlarge the use of the rights sought to be transferred if the transfer is conditioned properly. Accordingly, application for Transfer No. 75529 requires the 228.7 acres described by water rights No. 47-17476, 47-17478 and 47-17480 be permanently reduced by 11.6 acres to allow water use at the DeVries dairy.

11. The protestant did not present evidence sufficient to overcome the weight of the evidence provided by the applicant. The changes proposed by the application for transfer is in the local public interest.

12. The applicant will employ methods of water use that are consistent with conservation of water for those uses proposed by the transfer.

13. Approval and completion of the proposed change of nature of use of the transfer does not affect the agricultural base of the local area.

14. The application for transfer should be approved.

ORDER

IT IS HEREBY ORDERED that application for transfer no. 75529 is **Approved** subject to the conditions as listed on the attached **preliminary** approval document.

Dated this 18th day of March 2010.

A handwritten signature in black ink, appearing to read "Allen D. Merritt", is written over a horizontal line.

Allen D. Merritt, PE
Hearing Officer

CERTIFICATE OF MAILING

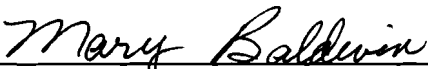
I HEREBY CERTIFY that on this 18th day of March, 2010, a true and correct copy of the foregoing documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to:

Documents Served: Preliminary Order, and Explanatory Information Sheet to accompany a Preliminary Order.

GREG & JULIE DE VRIES
3971 N 1200 E
BUHL ID 83316

DU WAYNE KIMBALL
1333 E 3500 N
BUHL ID 83316

BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301



Mary Baldwin
Administrative Assistant

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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 issuance 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.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

PRELIMINARY* TRANSFER OF WATER RIGHT *PRELIMINARY
TRANSFER NO. 75529

This is to certify that: JULIE DE VRIES And GREG DE VRIES
3971 N 1200 E
BUHL ID 83316
(208)534-6971

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>
47-16331	WR/Decreed	12/16/1980	0.04 cfs	N/A			GROUND WATER
47-17476	AJC/License	08/08/1954	1.9 cfs	832.4 af	208.1	228.7	GROUND WATER
47-17478	AJC/License	11/06/1961	4.18 cfs	912.8 af	228.0	228.7	GROUND WATER
47-17480	AJC/License	04/03/1961	0.29 cfs	148.8 af	105.1	228.7	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>
47-16331	NO	YES	NO	YES	NO	NO
47-17476	YES	YES	YES	YES	YES	YES
47-17478	YES	YES	YES	YES	YES	YES
47-17480	YES	YES	YES	YES	YES	YES

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>
47-16331	47-16331	0.04 cfs	14.6 af	N/A			N/A	N/A		N/A
47-17476	47-17511	0.1 cfs	31.7 af	N/A		47-17510	1.8 cfs	790 af	197.5	217.1
47-17478	47-17513	0.21 cfs	35 af	N/A		47-17512	3.97 cfs	865.6 af	216.4	217.1
47-17480	47-17515	0.02 cfs	7.4 af	N/A		47-17514	0.27 cfs	131.7 af	99.8	217.1

COMBINED

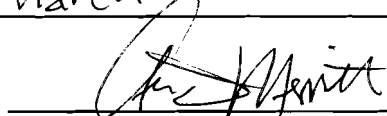
TOTALS	0.25 cfs	49.6 af				N/A	N/A	N/A	N/A
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Detailed Water Right Description(s) attached

Dated this 18th day of March, 20 10

SUPPORT DATA

IN FILE # 47-16331


Southern Region Manager

WATER RIGHT NO. 47-16331
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-16331 is now described as follows.

Right Holder: GREG DE VRIES And JULIE DE VRIES
 3971 N 1200 E
 BUHL ID 83316

Priority Date: December 16, 1980

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01 to	12/31	0.04 CFS	14.6 AF
STOCKWATER	01/01 to	12/31	0.04 CFS	14.6 AF
			0.04 CFS	14.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S 14E 9				X													

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S 14E 9				X													

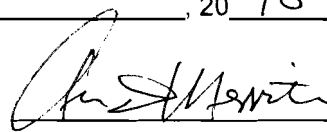
**WATER RIGHT NO. 47-16331
As Modified by Transfer No. 75529**

CONDITIONS OF APPROVAL

1. The quantity of water under this right for stockwater and domestic use shall not exceed 13,000 gallons per day.
2. Domestic use is for farmstead with 1 home and 1 apartment in barn and does not include irrigation. One additional home on farmstead is covered by right 47-16330. When rights 47-16330 and 47-16331 are combined they shall not exceed 13,000 gallons per day.
3. Rights 47-16331, 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.25 cfs, a total annual maximum diversion volume of 49.6 af.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of 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. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. 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.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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.

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 18th day of March, 2010



Southern Region Manager

WATER RIGHT NO. 47-17510
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-17510 is now described as follows.

Right Holder: MATHERS RANCH INC
 3485 E 3100 N
 KIMBERLY ID 83341

Priority Date: August 08, 1954

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1.80 CFS	790.0 AF
			1.80 CFS	790.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWNE	Sec. 31 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWNW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWSW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS 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	
11S	18E	31	1.6		8.5	38.0					2.6	40.0	26.0	38.0	34.0				188.7
11S	18E	32					27.4			1.0									28.4

Total Acres: 217.1

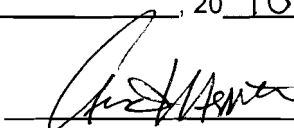
WATER RIGHT NO. 47-17510
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. 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.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
3. The rights listed below are limited to a total combined annual diversion volume of 868.4 af.
Combined Right Nos.: 47-17510, 47-17512, 47-17514
4. The right holder shall maintain a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
5. Right 47-17510 is limited to the irrigation of 197.5 acres within the place of use described above in a single irrigation season.
6. Use of this right is combined with water from Twin Falls Canal Co.
7. Right Nos. 47-17510, 47-17512, 47-17514 are limited to the irrigation of a combined total of 217.1 acres in a single irrigation season.
8. The rights listed below are limited to a total combined diversion rate 3.97 cfs. Combined Right Nos.: 47-17510, 47-17512, 47-17514

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 18th day of March, 2010


Southern Region Manager

WATER RIGHT NO. 47-17511
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-17511 is now described as follows.

Right Holder: GREGORY J DEVRIES And JULIE DE VRIES
3971 N 1200 E
BUHL ID 83316

Priority Date: August 08, 1954

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	0.10 CFS	31.7 AF
STOCKWATER	01/01	to 12/31	0.10 CFS	31.7 AF
			0.10 CFS	31.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SENE Sec. 9 Twp 10S Rge 14E TWIN FALLS
County

GROUND WATER SENE Sec. 9 Twp 10S Rge 14E TWIN FALLS
County

GROUND WATER SENE Sec. 9 Twp 10S Rge 14E TWIN FALLS
County

PLACE OF USE: COMMERCIAL

[illegible]

PLACE OF USE: STOCKWATER

[illegible]

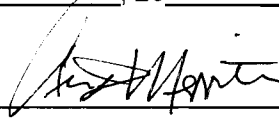
WATER RIGHT NO. 47-17511
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. Rights 47-16331, 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.25 cfs, a total annual maximum diversion volume of 49.6 af.
2. Rights 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.21 cfs, a total annual maximum diversion volume of 35.0 af.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. 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.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

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 18th day of March, 2010



Southern Region Manager

WATER RIGHT NO. 47-17512
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-17512 is now described as follows.

Right Holder: MATHERS RANCH INC
 3485 E 3100 N
 KIMBERLY ID 83341

Priority Date: November 06, 1961

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	3.97 CFS	865.6 AF
			3.97 CFS	865.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWNE	Sec. 31 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWNW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWSW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS 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	
11S	18E	31	1.6		8.5	38.0							2.6	40.0	26.0	38.0	34.0	188.7	
11S	18E	32					27.4			1.0								28.4	

Total Acres: 217.1

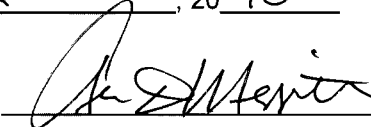
WATER RIGHT NO. 47-17512
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. The rights listed below are limited to a total combined annual diversion volume of 868.4 af. Combined Right Nos.: 47-17510, 47-17512, 47-17514
2. The right holder shall maintain a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
3. Right 47-17512 is limited to the irrigation of 216.4 acres within the place of use described above in a single irrigation season.
4. 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.
5. The rights listed below are limited to a total combined diversion rate 3.97 cfs. Combined Right Nos.: 47-17510, 47-17512, 47-17514
6. Use of this right is combined with water from Twin Falls Canal Co.
7. Right Nos. 47-17510, 47-17512 and 47-17514 are limited to the irrigation of a combined total of 217.1 acres in a single irrigation season.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

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 18th day of March, 20 10


Southern Region Manager

WATER RIGHT NO. 47-17513
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-17513 is now described as follows.

Right Holder: JULIE A DEVRIES And GREGORY J DEVRIES
3971 N 1200 E
BUHL ID 83316

Priority Date: November 06, 1961

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	0.21 CFS	35.0 AF
COMMERCIAL	01/01	to 12/31	0.21 CFS	35.0 AF
			0.21 CFS	35.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SENE	Sec. 9	Twp 10S	Rge 14E	TWIN FALLS County

PLACE OF USE: STOCKWATER

[illegible]

PLACE OF USE: COMMERCIAL

[illegible]

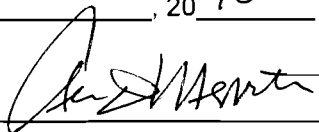
WATER RIGHT NO. 47-17513
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. Rights 47-16331, 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.25 cfs, a total annual maximum diversion volume of 49.6 af.
2. Rights 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.21 cfs, a total annual maximum diversion volume of 35.0 af.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. 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.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

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 18th day of March, 2010



Southern Region Manager

WATER RIGHT NO. 47-17514
As Modified by Transfer No. 75529

In accordance with the approval of Transfer No. 75529, Water Right No. 47-17514 is now described as follows.

Right Holder: MATHERS RANCH INC
 3485 E 3100 N
 KIMBERLY ID 83341

Priority Date: April 03, 1961

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	0.27 CFS	131.7 AF
			0.27 CFS	131.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SWNE	Sec. 31 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWNW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS County
GROUND WATER	SWSW	Sec. 32 Twp 11S	Rge 18E	TWIN FALLS 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	
11S	18E	31	1.6		8.5	38.0							2.6	40.0	26.0	38.0	34.0	188.7	
11S	18E	32						27.4			1.0							28.4	

Total Acres: 217.1

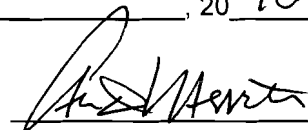
WATER RIGHT NO. 47-17514
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. Right Nos. 47-17510, 47-17512, 47-17514 are limited to the irrigation of a combined total of 217.1 acres in a single irrigation season.
2. The right holder shall maintain a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
3. The rights listed below are limited to a total combined diversion rate of 3.97 cfs. Combined Right Nos.: 47-17510, 47-17512, 47-17514
4. The rights listed below are limited to a total combined annual diversion volume of 868.4 af. Combined Right Nos.: 47-17510, 47-17512, 47-17514
5. Right 47-17514 is limited to the irrigation of 99.8 acres within the place of use described above in a single irrigation season.
6. Use of this right is combined with water from Twin Falls Canal Co.
7. 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.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

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 18th day of March, 20 10



Southern Region Manager

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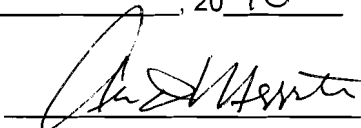
WATER RIGHT NO. 47-17515
As Modified by Transfer No. 75529

CONDITIONS OF APPROVAL

1. Rights 47-16331, 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.25 cfs, a total annual maximum diversion volume of 49.6 af.
2. Rights 47-17511, 47-17513 and 47-17515 when combined shall not exceed a total diversion rate of 0.21 cfs, a total annual maximum diversion volume of 35.0 af.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. 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.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

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 18th day of March, 2010


Southern Region Manager