

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**TRANSFER OF WATER RIGHT**  
**TRANSFER NO. 71197**

This is to certify that: BRIAN CLARK And JENNIFER J CLARK  
 PO BOX 428  
 FAIRFIELD ID 83327  
 (208)764-2507

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> |
|--------------|---------------------|-----------------|-------------|---------------|-------------------|--------------------|---------------|
| 37-50D       | AJC/Decreed         | 06/27/1883      | 0.28 cfs    | N/A           |                   | 25.0               | SOLDIER CREEK |
| 37-21287     | WR/Decreed          | 06/01/1886      | 0.16 cfs    | N/A           |                   | 8.0                | SOLDIER 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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-50D                | YES          | NO         | YES        | YES            | NO                   | NO                   |
| 37-21287              | NO           | YES        | YES        | NO             | NO                   | NO                   |

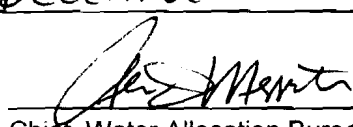
**Summary of Water Rights After the Approved Change**

| <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> |
|-----------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-50D                | <b>37-22462</b>                  | 0.26 cfs             | N/A                    | 22.7              | 36.4               | <b>37-22461</b>                    | 0.02 cfs              | N/A                     | N/A                         | 2.3                          |
| 37-21287              | <b>37-21287</b>                  | 0.16 cfs             | N/A                    | 8.0               | 36.4               |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED</b>       |                                  |                      |                        |                   |                    |                                    |                       |                         |                             |                              |
| <b>TOTALS</b>         |                                  | <b>0.42 cfs</b>      |                        | <b>30.7</b>       | <b>36.4</b>        |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

Detailed Water Right Description(s) attached

Dated this 18<sup>th</sup> day of December, 2009

For

  
 Chief, Water Allocation Bureau

**SUPPORT DATA**

IN FILE # 37-50D

**WATER RIGHT NO. 37-21287**  
**As Modified by Transfer No. 71197**

In accordance with the approval of Transfer No. 71197, Water Right No. 37-21287 is now described as follows.

**Right Holder:** BRIAN CLARK And JENNIFER J CLARK  
 PO BOX 428  
 FAIRFIELD ID 83327

**Priority Date:** June 01, 1886

**Source:** SOLDIER CREEK

**Tributary:** CAMAS CREEK

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> |
|-----------------------|-------------|-----------|-----------------------|
| IRRIGATION            | 04/15       | to 10/31  | 0.16 CFS              |
|                       |             |           | 0.16 CFS              |

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

|               |        |                                      |
|---------------|--------|--------------------------------------|
| SOLDIER CREEK | NESESE | Sec. 33 Twp 01N Rge 14E CAMAS County |
| SOLDIER CREEK | NWNWSW | Sec. 3 Twp 01S Rge 14E CAMAS County  |
| SOLDIER CREEK | SENWSW | Sec. 3 Twp 01S Rge 14E CAMAS 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 |        |
| 01S | 14E | 3   |    |    |    |    |    |    | 6.2 |    | 8.5 | 11.5 | .7 | 9.5 |    |    |    |    | 36.4   |

Total Acres: 36.4

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 8.0 acres within the place of use described above in a single irrigation season.
2. Rights 37-22462 and 37-21287 when combined shall not exceed the irrigation of 30.7 acres within the place of use described above in a single irrigation season..
3. To mitigate for moving the point of diversion downstream and to prevent injury to senior water right holders, 0.01 cfs of this right shall remain undiverted in Soldier Creek for conveyance loss. Also, 0.01 cfs shall continue to be diverted into the ditch starting in the NESESE Sec. 33, T01N, R14E for conveyance loss in the ditch to avoid injury to other ditch users as a result of the approval of Transfer No. 71197.
4. This right is limited to a maximum diversion rate of 0.14 cfs at the points of diversion in Sec. 3, T01S, R14E.

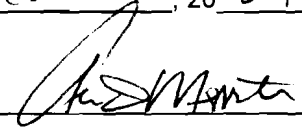
**WATER RIGHT NO. 37-21287**  
**As Modified by Transfer No. 71197**

5. Rights 37-21287 and 37-22462 when combined shall not exceed a total diversion rate of 0.37 cfs at the points of diversion in Sec. 3, T01S, R14E.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. Use of water under this right may 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. 37-C (presently inactive).
8. In the future, the right holder may be required to maintain measuring devices and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
9. Approval of Transfer No. 71197 does not authorize the construction or use of any in-stream impoundment, not existing on the date of its approval at the site of the pump diversions, in such a manner that would impede fish migration or that would increase thermal degradation on Soldier Creek. Prior to the diversion and use of water under this approval, the right holder shall screen all pump intakes with 1/4 inch or smaller mesh to prevent entrainment of fish.
10. Points of diversion in Sec. 3, T01S, R14E are located within Lots 1 and 11, Mountain View Acres Subdivision.
11. Place of use is located within Lots 1, 2, 9, 10 and 11 of Mountain View Subdivision, and within Lots 7 and 8 Block 2 of Mountain View Too Subdivision.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.
15. This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

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 18<sup>th</sup> day of December, 2009

*FDL*

  
\_\_\_\_\_  
Chief, Water Allocation Bureau

**WATER RIGHT NO. 37-22461  
As Modified by Transfer No. 71197**

In accordance with the approval of Transfer No. 71197, Water Right No. 37-22461 is now described as follows.

**Right Holder:** BRIAN CLARK And JENNIFER J CLARK  
PO BOX 428  
FAIRFIELD ID 83327

**Priority Date:** June 27, 1883

**Source:** SOLDIER CREEK

**Tributary:** CAMAS CREEK

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/15       | to 10/31  | 0.02 CFS              |               |
|                       |             |           | 0.02 CFS              |               |

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

SOLDIER CREEK      NESESE      Sec. 33 Twp 01N Rge 14E CAMAS County

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |    | NW |     |     |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|-----|-----|----|----|----|----|----|----|----|----|----|--------|
| 01S 14E 3   | NE | NW | SW | SE | NE | NW  | SW  | SE | NE | NW | SW | SE | NE | NW | SW | SE | 2.3    |
|             |    |    |    |    |    | 1.0 | 1.3 |    |    |    |    |    |    |    |    |    |        |
|             |    |    |    |    |    | L 4 |     |    |    |    |    |    |    |    |    |    |        |

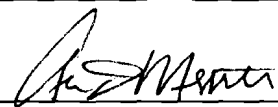
Total Acres: 2.3

**CONDITIONS OF APPROVAL**

- Place of use is located within Lot 1 Block 1 of Mountain View Too Subdivision, and within Tax Lot 1641.
- Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
- Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
- 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 shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

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 18<sup>th</sup> day of December, 2009

  
 For \_\_\_\_\_  
 Chief, Water Allocation Bureau

**WATER RIGHT NO. 37-22462**  
**As Modified by Transfer No. 71197**

In accordance with the approval of Transfer No. 71197, Water Right No. 37-22462 is now described as follows.

**Right Holder:** BRIAN CLARK And JENNIFER J CLARK  
 PO BOX 428  
 FAIRFIELD ID 83327

**Priority Date:** June 27, 1883

**Source:** SOLDIER CREEK

**Tributary:** CAMAS CREEK

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/15       | to 10/31  | 0.26 CFS              |               |
|                       |             |           | 0.26 CFS              |               |

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

SOLDIER CREEK      SWSENE      Sec. 33 Twp 01N Rge 14E CAMAS County

SOLDIER CREEK      NWNWSW      Sec. 3 Twp 01S Rge 14E CAMAS County

SOLDIER CREEK      SENWSW      Sec. 3 Twp 01S Rge 14E CAMAS 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 |        |
| 01S 14E 3   |    |    |    |    |    |    | 6.2 |    | 8.5 | 11.5 | .7 | 9.5 |    |    |    |    | 36.4   |

Total Acres: 36.4

**CONDITIONS OF APPROVAL**

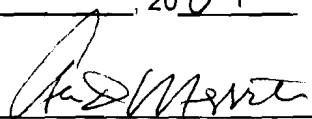
1. This right is limited to the irrigation of 22.7 acres within the place of use described above in a single irrigation season.
2. Rights 37-22462 and 37-21287 when combined shall not exceed the irrigation of 30.7 acres within the place of use described above in a single irrigation season..
3. To mitigate for moving the point of diversion downstream and to prevent injury to senior water right holders, 0.02 cfs of this right shall remain undiverted in Soldier Creek for conveyance loss. Also, 0.01 cfs shall continue to be diverted into the ditch starting in the SWSENE Sec. 33, T01N, R14E for conveyance loss in the ditch to avoid injury to other ditch users as a result of the approval of Transfer No. 71197.
4. This right is limited to a maximum diversion rate of 0.23 cfs at the points of diversion in Sec. 3, T01S, R14E.
5. Rights 37-21287 and 37-22462 when combined shall not exceed a total diversion rate of 0.37 cfs at the points of diversion in Sec. 3, T01S, R14E.

**WATER RIGHT NO. 37-22462**  
**As Modified by Transfer No. 71197**

6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. Use of water under this right may 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. 37-C (presently inactive).
8. Approval of Transfer No. 71197 does not authorize the construction or use of any in-stream impoundment, not existing on the date of its approval at the site of the pump diversions, in such a manner that would impede fish migration or that would increase thermal degradation on Soldier Creek. Prior to the diversion and use of water under this approval, the right holder shall screen all pump intakes with 1/4 inch or smaller mesh to prevent entrainment of fish.
9. In the future, the right holder may be required to maintain measuring devices and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
10. Points of diversion in Sec. 3, T01S, R14E are located within Lots 1 and 11, Mountain View Acres Subdivision.
11. Place of use is located within Lots 1, 2, 9, 10 and 11 of Mountain View Subdivision, and within Lots 7 and 8 of Mountain View Too Subdivision.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.
15. This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

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 18<sup>th</sup> day of December, 2009

  
\_\_\_\_\_  
Chief, Water Allocation Bureau