



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

June 13, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RIVER GROVE INC
C/O PETER L STURDIVANT
PO BOX 606
HAILEY ID 83333

PETER L STURDIVANT
JANE STURDIVANT
PO BOX 968
HAILEY ID 83333-0968

RE: Transfer No.: 70679 - Water Rights 36-37A, 36-37B, 36-106, 36-16179,
36-16180 - Amended Transfer Approval Notice
Transfer No.: 70994 - Water Rights 36-16179, 36-16193, 36-16194
Amended Transfer Approval Notice
Transfer No.: 71587 - Water Right 36-16171 - Amended Transfer Approval Notice

Dear Water Right Holder(s) and other Interested Persons:

The Department of Water Resources has issued the enclosed approved amended Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The amended transfer approvals provide corrections for most of the items requested in the petition for reconsideration filed on 02-04-2005. However, the amendment to Transfer 70679 does not include any changes to the unsubordinated irrigation rate as requested in the petition. Water right 36-106 authorized irrigation use in the amount of 2.0 cfs for 10 acres. The irrigation rate was conditioned as follows:

Unsubordinated Irrigation Use = 0.50 cfs (0.24 cfs for conveyance loss)
Subordinated Irrigation Use = 1.50 cfs
Total Irrigation Use = 2.00 cfs

The transferred amount of 3.3 acres, if split proportionally, would carry the following conditions:

Unsubordinated Irrigation Use = 0.17 cfs (0.08 cfs for conveyance loss)
Subordinated Irrigation Use = 0.49 cfs
Total Irrigation Use = 0.66 cfs

Since the transfer application indicated that the conveyance loss would remain with the unchanged portion of the right, the unsubordinated conveyance loss associated with the 3.3 acres was subtracted from the total unsubordinated irrigation use leaving a balance of 0.09 cfs. The result is shown as follows:

Unsubordinated Irrigation Use = 0.09 cfs (no conveyance loss)

Subordinated Irrigation Use = 0.49 cfs

Total Irrigation Use = 0.58 cfs

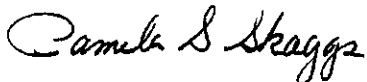
The amended Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (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 208-287-4948.

Sincerely,



for Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

cc: BROCKWAY ENGINEERING
PATRICK D BROWN

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing **AMENDED TRANSFER APPROVAL** to the person(s) listed below:

RE: TRANSFER NO. 70679

WATER RIGHTS 36-37A, 36-37B, 36-106, 36-16179, 36-16180

TRANSFER NO. 70994

WATER RIGHTS 36-16179, 36-16193, 36-16194

TRANSFER NO. 71587

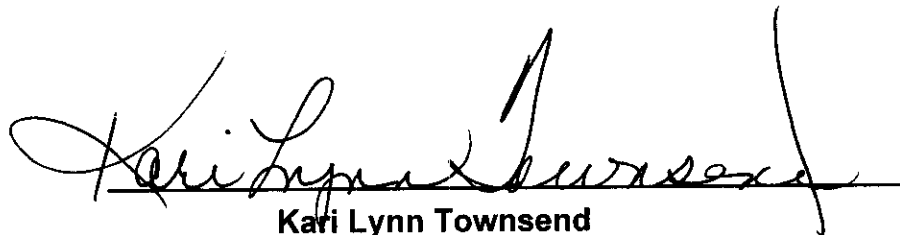
WATER RIGHTS 36-16171

**PATRICK D BROWN
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PO BOX 207
TWIN FALLS ID 83303-0207**

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**BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

**RIVER GROVE INC
C/O PETER L STURDIVANT
PO BOX 606
HAILEY ID 83333**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

**Kari Lynn Townsend
Secretary**

(To be used in connection with actions when a hearing was not held)

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.

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. 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.

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.

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.

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.