

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86170**

This is to certify that: **HAGERMAN WINGS FARM LLC**
823 E 2700 S
HAGERMAN, ID 83332-5603

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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
36-16889	WR/DECREED	3/6/1972	2.000 cfs	N/A	N/A	N/A	TUCKER SPRINGS, UNNAMED SPRING

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>
36-16889	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-16889	36-16889	2.000 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.000 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 29th day of August, 2022.



Southern Region Manager

Transfer No. 86170

WATER RIGHT NO. 36-16889**As Modified by Transfer No. 86170**

In accordance with the approval of Transfer No. 86170, Water Right No. 36-16889 is now described as follows:

Right Holder: HAGERMAN WINGS FARM LLC
823 E 2700 S
HAGERMAN, ID 83332-5603

Priority Date: 3/6/1972

Source: UNNAMED SPRING
Source: TUCKER SPRINGS

Tributary: RILEY CREEK

BENEFICIAL USE
FISH PROPAGATION

From
01/01

To
to 12/31

Diversion Rate
2.000 cfs
2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

UNNAMED SPRING
TUCKER SPRINGS

NWSE
NWSE

Sec 36 Twp 07S Rge 13E GOODING County
Sec 36 Twp 07S Rge 13E GOODING County

PLACE OF USE: FISH PROPAGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	15											X						
07S	13E	16													X			X	
															L 3			L 6	0

CONDITIONS OF APPROVAL

1. 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. 36A.
2. 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 diversions.
3. These springs empty into the Big Bend Ditch and are re-diverted within the SESE S16, T07S R13E B.M.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 86170

WATER RIGHT NO. 36-16889
As Modified by Transfer No. 86170

CONDITIONS OF APPROVAL

6. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

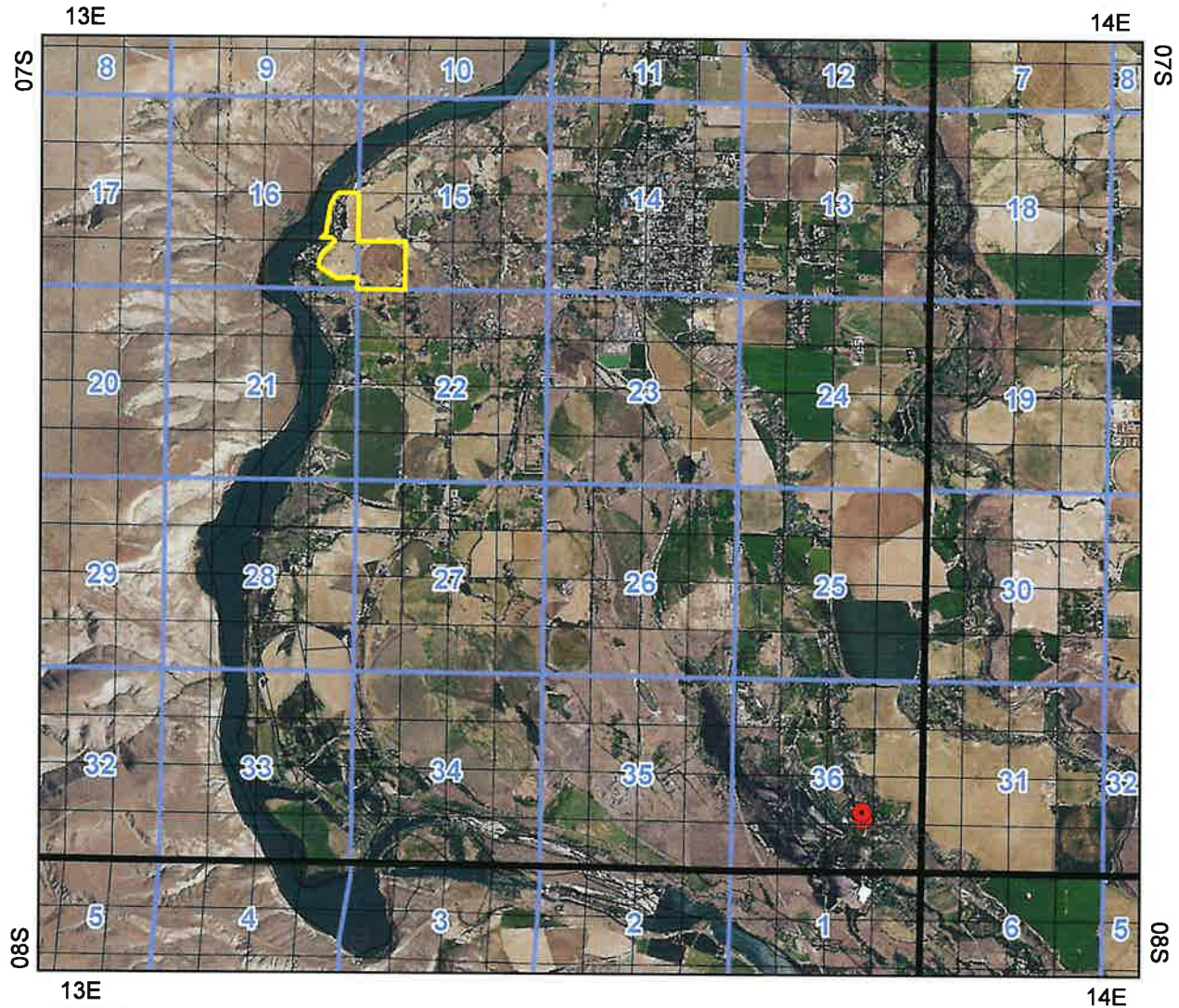


State of Idaho
Department of Water Resources

Attachment to Transfer # 86170

36-16889

This map depicts the FISH PROPAGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



13E

14E

Place Of Use Boundary

Townships

PLS Sections

Quarter Quarters

Point of Diversion

0 0.5 1 2 Miles





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 31, 2022

HAGERMAN WINGS FARM LLC
823 E 2700 S
HAGERMAN ID 83332-5603

Re: Transfer No: 86169

Water Right No(s): 36-7081, 36-7172, 36-7229, 36-7233

Re: Transfer No: 86170

Water Right No(s): 36-16889

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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 home page 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) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
CHARLES G BROCKWAY
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

WATER DISTRICT 36A
MATT DOPERASKI
PO BOX 295
HAGERMAN ID 83332-0295

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 86169

Water Right No(s): 36-7081, 36-7172, 36-7229, 36-7233

Re: Transfer No: 86170

Water Right No(s): 36-16889

HAGERMAN WINGS FARM LLC
823 E 2700 S
HAGERMAN ID 83332-5603

BROCKWAY ENGINEERING PLLC
CHARLES G BROCKWAY
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

WATER DISTRICT 36A
MATT DOPERALSKI
PO BOX 295
HAGERMAN ID 83332-0295



Denise Maline
Administrative Assistant

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.

MEMORANDUM

Date: July 12, 2022

To: Transfer 86170 File

From: William Mills

Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes changing the place of use (POU) for a 2.0 cfs, fish propagation right diverted from an unnamed spring and Tucker Springs. Application proposes dropping one 40 acre tract from the right and adding two adjacent 40 acre tracts as part of the authorized POU. No changes are proposed for the points of diversion. Current and proposed POUs are located approximately 1.0 to 1.7 miles west and 0.2 miles south to 0.2 miles north of the intersection of Salmon St. and Hwy 30 in Hagerman.

Both PODs and the current and proposed POU are located in Water District 36A and Watermaster comments were solicited. The Watermaster indicated that he opposes approval of this application and stated the following:

"This water right request of fish propagation water removes the place of use SWSE 16 7S 13E and adds place of use NESE 16 7S 13E and SWSW 15 7S 13E. Net area for the place of use represents and expansion of place of use. A transfer request based on existing use and the historical non-compliance of current water right place of use is not a valid reason to approve this transfer. Therefore, the water master requests the department not approve this transfer."

According to section 5(d)(8) in the Transfer Processing Memo No. 24, a transfer application proposing to an increase in "the number or volume of raceways in a fish propagation facility, will not be presumed to be an enlargement of the water right, unless the diversion rate or annual volume of water proposed to be diverted are proposed to be increased."

- **Authority to File:**
IDWR records indicate the applicant currently owns the water right in this transfer and the properties this water right is associated with.
- **Water Right Validity:**
Water right 36-16889 was decreed in the SRBA on 4/18/2008. Recent aerial imagery indicates there are currently ponds associated with this water right.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. Application was subject to public notice and protest.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

RECEIVED

JUN 29 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

Re: Transfer No. 86170

Water Right No(s): 36-16889

Transfer Applicant's Name: HAGERMAN WINGS FARM LLC
823 E 2700 S
HAGERMAN ID 83332-5603

Watermaster's Recommendation:

- a) _____ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:

- c) X I oppose approval of this application for the following reasons:

SEE ATTACHED

- d) _____ Additional comments:

Dated this 26 day of JUNE, 2022

Water District 36A

Matt Doperski

Watermaster's Signature

MATT DOPERSKI

Printed Name

ORIGINAL

Watermaster Comments Regarding Transfer Request ⁶88170

This water right transfer request of fish propagation water removes the place of use SWSE 16, 7S 13E and adds place of use NESE 16 7S 13E and SWSW 15 7S 13E. Net area for the place of use on this request represents and expansion of place of use. A transfer request based on existing use and the historical non-compliance of current water right place of use is not a valid reason to approve this transfer. Therefore, the water master requests the department not approve this transfer.

RECEIVED

JUN 27 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

Re: Transfer No. 86170

Water Right No(s): 36-16889

Transfer Applicant's Name: HAGERMAN WINGS FARM LLC
823 E 2700 S
HAGERMAN ID 83332-5603

Watermaster's Recommendation:

- a) _____ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:

- c) X I oppose approval of this application for the following reasons:

SEE ATTACHED

- d) _____ Additional comments:

Dated this 26 day of JUNE, 2022

Water District 36A

Matt Doperski

Watermaster's Signature

MATT DOPERSKI

Printed Name

Watermaster Comments Regarding Transfer Request 88170

This water right transfer request of fish propagation water removes the place of use SWSE 16, 7S 13E and adds place of use NESE 16 7S 13E and SWSW 15 7S 13E. Net area for the place of use on this request represents and expansion of place of use. A transfer request based on existing use and the historical non-compliance of current water right place of use is not a valid reason to approve this transfer. Therefore, the water master requests the department not approve this transfer.

Maline, Denise

From: Skinner, Corey
Sent: Thursday, June 23, 2022 8:26 AM
To: Matt Doperalski
Cc: Maline, Denise
Subject: RE: Water rights transfer Hagerman Wings Farm LLC

Matt,

You can have until the 30th to submit your water master comments. If you can, it would be appreciated if you could get them to us sooner, though.

Corey

From: Matt Doperalski <mattwm36a@gmail.com>
Sent: Wednesday, June 22, 2022 9:34 PM
To: Maline, Denise <Denise.Maline@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: FW: Water rights transfer Hagerman Wings Farm LLC

Hello,

I'm following up on the request below. Given some time I would like to suggest some conditions for approval but if it is too late for consideration let me know.

Regards, Matt.

From: Matt Doperalski <mattwm36a@gmail.com>
Date: Saturday, June 18, 2022 at 12:46 PM
To: denise.maline@idwr.idaho.gov <denise.maline@idwr.idaho.gov>, corey.skinner@idwr.idaho.gov <corey.skinner@idwr.idaho.gov>
Subject: Water rights transfer Hagerman Wings Farm LLC

Hello Denise and Corey,

Today I received the documentation for the Hagerman Wings Farm LLC water transfer requests. Given the timeline outlined in the letter, I am requesting an extension to June 30, 2022 to study and respond to the requests.

Sincerely,

Matt Doperalski
Water Master District 36A
208-949-0523

Maline, Denise

From: Matt Doperalski <mattwm36a@gmail.com>
Sent: Saturday, June 18, 2022 12:47 PM
To: Maline, Denise; Skinner, Corey
Subject: Water rights transfer Hagerman Wings Farm LLC

Hello Denise and Corey,

Today I received the documentation for the Hagerman Wings Farm LLC water transfer requests. Given the timeline outlined in the letter, I am requesting an extension to June 30, 2022 to study and respond to the requests.

Sincerely,

Matt Doperalski
Water Master District 36A
208-949-0523

**** Proof of Publication ****

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

REBA DAVIS, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

ORDER NUMBER 128061

Reba Davis

(Legals Clerk)

STATE OF IDAHO)

SS

COUNTY OF TWIN FALLS)

On this 9 day of June in the year of 2022 before me, a Notary Public, personally appeared before me Reba Davis known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Amy Wiesmore

Notary Public FOR Idaho

Residing at: Twin Falls, Idaho

My Commission expires: 9-4-26

Section: Legals

Category: 50 Legal

PUBLISHED ON: 06/02/2022, 06/09/2022

TOTAL AD COST: 182.14

FILED ON: 6/9/2022

PROPOSED AMENDMENT OF WATER PERMIT
PERMIT NO. 36-17169
IDAHO POWER COMPANY, PO BOX 70, BOISE, ID 83707-0070 filed an application to amend permit no. 36-17169 on 04-08-2022. Application for Amendment of Permit proposes adding a second point of diversion (well) for irrigation purposes under permit 36-17169. Both points of diversion are located approximately 4.4 miles north and 4.3 miles east of Buhl. The original permitted flow rate of 0.27 cfs will not change with the amendment.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85829
HAGERMAN WINGS FARM LLC, 823 E 2700 S, HAGERMAN, ID 83332-5603 has filed Application No. 85829 for changes to the following water rights within GOODING County(s): Right No(s). 2-10338, 36-15467, 36-98, 36-99. The purpose of the transfer is to change a portion of the above rights as follows:
Application for transfer proposes creating a 488 acre irrigation permissible place of use (PPU) limited to the irrigation of 184 acres within the PPU for three Billingsley Creek irrigation water rights and one Snake River irrigation water right (13.38 cfs combined). No changes are proposed for the points of diversion. Proposed PPU and existing POUs are located approximately 0.5 miles to 1.7 miles west and 0.2 miles south to 0.7 miles north of the intersection of Salmon St. and Hwy 30 in Hagerman.

TRANSFER NO. 86170
HAGERMAN WINGS FARM LLC, 823 E 2700 S, HAGERMAN, ID 83332-5603 has filed Application No. 86170 for changes to the following water rights within GOODING County(s): Right No(s). 36-16889. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes changing the place of use (POU) for a 2.0 cfs, fish propagation right diverted from an unnamed spring and Tucker Springs. Application proposes dropping one 40 acre tract from the right and adding two adjacent 40 acre tracts as part of the authorized POU. No changes are proposed for the points of diversion. Current and proposed POUs are located approximately 1.0 to 1.7 miles west and 0.2 miles south to 0.2 miles north of the intersection of Salmon St. and Hwy 30 in Hagerman.

TRANSFER NO. 86169
HAGERMAN WINGS FARM LLC, 823 E 2700 S, HAGERMAN, ID 83332-5603 has filed Application No. 86169 for changes to the following water rights within GOODING County(s): Right No(s). 36-7081, 36-7172, 36-7229, 36-7233. The purpose of the transfer is to change a portion of the above rights as follows:
Application for transfer proposes changing the place of use (POU) for four Billingsley Creek wildlife water rights (27.7 cfs combined) to coincide with current use of those rights. No changes are proposed for the points of diversion. Proposed and existing POUs are located approximately 0.5 miles to 1.7 miles west and 0.2 miles south to 0.7 miles north of the intersection of Salmon St. and Hwy 30 in Hagerman.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before June 21, 2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Publish: June 2nd & 9th, 2022

AMY WIESMORE
COMMISSION NO. 20203230
NOTARY PUBLIC
STATE OF IDAHO
MY COMM. EXPIRES 09/04/2026

RECEIVED

JUN 13 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ OK dm 6/17/2022