

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86096**

This is to certify that: **FERRARONE FAMILY LIVING TRUST**
8 RYAN AVE
MILL VALLEY, CA 94941-2124

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>
22-12784	WR/DECREED	6/1/1896	0.940 cfs	N/A	N/A	47.0	DARBY CREEK

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
22-2124A	WR/DECREED	10/11/1937	0.600 cfs	N/A	30.0	100.0	DICK CREEK
22-4083	WR/DECREED	11/29/1942	2.000 cfs	N/A	53.0	100.0	DICK CREEK
22-13974	WR/DECREED	10/31/1945	0.310 cfs	N/A		15.5	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>
22-12784	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>
22-12784	22-12784	0.940 cfs	N/A	47.0	120.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.940 cfs	N/A	47.0	120.0		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 30th day of August, 2022.

[Signature]

Regional Manager

Transfer No. 86096

Support Data
In File # 22-12784

WATER RIGHT NO. 22-12784

As Modified by Transfer No. 86096

In accordance with the approval of Transfer No. 86096, Water Right No. 22-12784 is now described as follows:

Right Holder: MARK HARRINGTON
PO BOX 300
DRIGGS, ID 83422

Priority Date: 6/1/1896

Source: DARBY CREEK

Tributary: TETON RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

0.940 cfs

0.940 cfs

LOCATION OF POINT(S) OF DIVERSION

DARBY CREEK

SENE

Sec 9 Twp 04N Rge 45E TETON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	9			40.0				40.0	40.0									120.0

Right Acre Limit: 47.0

POU Total Acres: 120.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 47 acres within the 120 acre place of use authorized by this right in a single irrigation season. The specific 47 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 47 acres to be irrigated within the 120 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
2. Rights 22-2124A, 22-4083 and 22-12784 when combined shall not exceed the irrigation of 114.5 acres.
3. This right shall only be diverted when Dick Creek and Darby Creek are connected to the Teton River and water rights on those creeks are regulated in conjunction with water rights from the Teton River.
4. 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. 01.

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WATER RIGHT NO. 22-12784
As Modified by Transfer No. 86096

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Darby Creek in T04N, R46E, Sec 17, Lot 1 (SWNWNE).
7. Authorized point of diversion is from Dick Creek.
8. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

WATER RIGHT NO. 22-2124A
As Modified by Transfer No. 86096

In accordance with the approval of Transfer No. 86096, Water Right No. 22-2124A is now described as follows:

Right Holder: FERRARONE FAMILY LIVING TRUST
 8 RYAN AVE
 MILL VALLEY, CA 94941-2124

Priority Date: 10/11/1937

Source: DICK CREEK

Tributary: TETON RIVER

BENEFICIAL USE
 IRRIGATION

From 04/15 **To** 10/31

Diversion Rate
 0.600 cfs
 0.600 cfs

LOCATION OF POINT(S) OF DIVERSION

DICK CREEK SENE Sec 9 Twp 04N Rge 45E TETON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	9			32.0				37.0	31.0									100.0

Right Acre Limit: 30.0

POU Total Acres: 100.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 30 acres within the authorized place of use in a single irrigation season.
2. Rights 22-2124A and 22-4083 when combined shall not exceed the irrigation of 83 acres.
3. Rights 22-2124A, 22-4083 and 22-12784 when combined shall not exceed the irrigation of 114.5 acres.
4. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
5. 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.

Transfer No. 86096

WATER RIGHT NO. 22-4083**As Modified by Transfer No. 86096**

In accordance with the approval of Transfer No. 86096, Water Right No. 22-4083 is now described as follows:

Right Holder: FERRARONE FAMILY LIVING TRUST
8 RYAN AVE
MILL VALLEY, CA 94941-2124

Priority Date: 11/29/1942

Source: DICK CREEK

Tributary: TETON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/15	to 10/31	2.000 cfs
STOCKWATER	01/01	to 12/31	0.050 cfs
			2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

DICK CREEK SESENE Sec 9 Twp 04N Rge 45E TETON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	9			32.0				37.0	31.0									100.0

Right Acre Limit: 53.0

POU Total Acres: 100.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	9			X				X	X									

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 53 acres within the authorized place of use in a single irrigation season.
2. Rights 22-2124A and 22-4083 when combined shall not exceed the irrigation of 83 acres.
3. Rights 22-2124A, 22-4083 and 22-12784 when combined shall not exceed the irrigation of 114.5 acres.
4. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Transfer No. 86096

WATER RIGHT NO. 22-4083
As Modified by Transfer No. 86096

CONDITIONS OF APPROVAL

5. 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.



WATER RIGHT NO. 22-13974
As Modified by Transfer No. 86096

In accordance with the approval of Transfer No. 86096, Water Right No. 22-13974 is now described as follows:

Right Holder: MARK HARRINGTON
 PO BOX 300
 DRIGGS, ID 83422

Priority Date: 10/31/1945

Source: SPRING

Tributary: FISH CREEK

BENEFICIAL USE
 IRRIGATION

From 04/15 **To** 10/31

Diversion Rate
 0.310 cfs
 0.310 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING SWSWNE Sec 15 Twp 04N Rge 45E TETON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	15									5.1	10.4							15.5

POU Total Acres: 15.5

CONDITIONS OF APPROVAL

1. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Attachment to Transfer Approval 86096

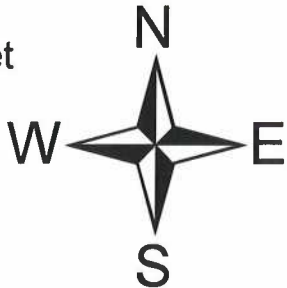
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- ▭ WR POU
- ▭ Township/Range
- ▭ Sections
- ▭ QQ

0 375 750 1,500 Feet



Date: 8/30/2022



August 30, 2022

FERRARONE FAMILY LIVING TRUST
8 RYAN AVE
MILL VALLEY CA 94941-2124

Re: Transfer No: 86096
Water Right No(s): 22-2124A , 22-4083, 22-12784, 22-13974

Transfer Approval Notice

Dear Water Right Holder:

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

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's 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) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure
CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

MARK HARRINGTON
PO BOX 300
DRIGGS ID 83422

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 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.: 86096

Water Right No(s): 22-2124A , 22-4083, 22-12784, 22-13974

**FERRARONE FAMILY LIVING TRUST
8 RYAN AVE
MILL VALLEY CA 94941-2124**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552**

**MARK HARRINGTON
PO BOX 300
DRIGGS ID 83422**



**Christina Henman
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.