STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 86344

This is to certify that: BURTENSHAW LAND & CATTLE LLC
1758 N 1000 E
TERRETON, ID 83450

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
31-11663	WR/DECREED	12/31/1945	6.750 cfs	1078.0 af	N/A	308.0	GROUND WATER
31-7012	WR/DECREED	7/3/1968	6.290 cfs	1078.0 af	N/A	308.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
31-11663	NO	YES	YES	YES	NO	NO
31-7012	NO	YES	YES	YES	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
31-11663	31-11663	6.750 cfs	1078.0 af	N/A	308.0	N/A	N/A	N/A	N/A	N/A
31-7012	31-7012	6.250 cfs	1078.0 af	N/A	308.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**6.750 cfs**	**1078.0 af**	**N/A**	**308.0**		**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 23rd day of August, 2022.

Regional Manager

Transfer No. 86344

Support Data
In File # 31-7012

WATER RIGHT NO. 31-7012

As Modified by Transfer No. 86344

In accordance with the approval of Transfer No. 86344, Water Right No. 31-7012 is now described as follows:

Right Holder: BURTENSHAW LAND & CATTLE LLC
1758 N 1000 E
TERRETON, ID 83450

Priority Date: 7/3/1968

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	04/15	to	10/15	6.160 cfs	1078.0 af
STOCKWATER	01/01	to	12/31	0.090 cfs	
				6.250 cfs	1078.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L1 (NENE)	Sec 6	Twp 06N Rge 34E	JEFFERSON County
GROUND WATER	L1 (NENE)	Sec 6	Twp 06N Rge 34E	JEFFERSON County
GROUND WATER	SESE	Sec 6	Twp 06N Rge 34E	JEFFERSON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	34E	6	39.0	40.0	40.0	39.0									39.0	40.0	39.0	32.0	308.0
			L 1	L 2															

POU Total Acres: 308.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	34E	5							X										
06N	34E	6	X	X	X	X									X	X	X	X	
			L 1	L 2															

CONDITIONS OF APPROVAL

1. Rights 31-7012 and 31-11663 when combined shall not exceed a total diversion rate of 6.75 cfs, a total annual maximum diversion volume of 1,078 af at the field headgate, and the irrigation of 308 acres.

2. 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. 110.

Transfer No. 86344

WATER RIGHT NO. 31-7012

As Modified by Transfer No. 86344

CONDITIONS OF APPROVAL

3. Prior to the diversion and use of water under Transfer approval 86344, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

5. The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 3/26/2002.

6. 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.

7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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 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. 31-11663

As Modified by Transfer No. 86344

In accordance with the approval of Transfer No. 86344, Water Right No. 31-11663 is now described as follows:

Right Holder: BURTENSHAW LAND & CATTLE LLC
1758 N 1000 E
TERRETON, ID 83450

Priority Date: 12/31/1945

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to	10/31	6.750 cfs	1078.0 af
				6.750 cfs	1078.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L1 (NENE)	Sec 6	Twp 06N Rge 34E	JEFFERSON County
GROUND WATER	SESE	Sec 6	Twp 06N Rge 34E	JEFFERSON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	34E	6	39.0	40.0	40.0	39.0									39.0	40.0	39.0	32.0	308.0
			L 1	L 2															

POU Total Acres: 308.0

CONDITIONS OF APPROVAL

1. Rights 31-7012 and 31-11663 when combined shall not exceed a total diversion rate of 6.75 cfs, a total annual maximum diversion volume of 1,078 af at the field headgate, and the irrigation of 308 acres.

2. 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. 110.

3. Prior to the diversion and use of water under Transfer approval 86344, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

Transfer No. 86344

WATER RIGHT NO. 31-11663

As Modified by Transfer No. 86344

CONDITIONS OF APPROVAL

5. 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.

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

8. 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.

Attachment to Transfer Approval 86344

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

N
W E
S

Date: 8/23/2022

IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

August 23, 2022

BURTENSHAW LAND & CATTLE LLC
1758 N 1000 E
TERRETON ID 83450

Re: Transfer No: 86344
Water Right No(s).: 31-7012, 31-11663

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:

IDAHO AGCREDIT FLCA
1586 N 2ND E
REXBURG ID 83440-5129

WILLIAM STODDART
1849 N 800 E
MONTEVIEW ID 83435-5115

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 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.: 86344
Water Right No(s).: 31-7012, 31-11663

BURTENSHAW LAND & CATTLE LLC
1758 N 1000 E
TERRETON ID 83450

IDAHO AGCREDIT FLCA
1586 N 2ND E
REXBURG ID 83440-5129

WILLIAM STODDART
1849 N 800 E
MONTEVIEW ID 83435-5115

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.