

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86045**

This is to certify that: **BRADLEY R HOGGAN AND
CATHY HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193**

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>
29-12566	WR/DECREED	7/13/1956	1.200 cfs	N/A	N/A	136.0	WASTE WATER
29-2328	WR/DECREED	1/31/1953	1.200 cfs	510.0 af	N/A	160.0	GROUND WATER
29-2426B	WR/DECREED	3/2/1960	0.530 cfs	140.0 af	N/A	40.0	GROUND WATER
29-7190	WR/DECREED	4/29/1974	1.120 cfs	210.0 af	N/A	60.0	GROUND WATER

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>
29-12566	YES	NO	YES	NO	NO	NO
29-2328	YES	NO	YES	NO	NO	NO
29-2426B	YES	YES	YES	NO	NO	NO
29-7190	YES	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>
29-12566	29-14470	0.210 cfs	N/A	24.0	52.0	29-12566	0.990 cfs	N/A	N/A	112.0
29-2328	29-14469	0.180 cfs	76.5 af	24.0	52.0	29-2328	1.020 cfs	433.5 af	N/A	136.0
29-2426B	29-14468	0.050 cfs	14.0 af	4.0	52.0	29-2426B	0.480 cfs	126.0 af	N/A	36.0
29-7190	29-14467	0.450 cfs	84.0 af	24.0	52.0	29-7190	0.670 cfs	126.0 af	N/A	36.0
COMBINED TOTALS		0.890 cfs	N/A	52.0	52.0		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 20th day of July, 2022.

**Support Data
In File # 29-2328**



Regional Manager

Transfer No. 86045

WATER RIGHT NO. 29-7190

As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-7190 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
CATHY P HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193

Priority Date: 4/29/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/15	to 10/15	0.670 cfs	126.0 af
			0.670 cfs	126.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNWSW Sec 21 Twp 11S Rge 37E BANNOCK 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	
11S	37E	21									9.0	27.0							36.0

POU Total Acres: 36.0

CONDITIONS OF APPROVAL

1. 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 THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
2. 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.

Transfer No. 86045

WATER RIGHT NO. 29-14467

As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-14467 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
CATHY P HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193

Priority Date: 4/29/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/15	to 10/15	0.450 cfs 0.450 cfs	84.0 af 84.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 23 Twp 11S Rge 37E BANNOCK 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	
11S	37E	23			35.0	8.1									0.8	8.1			52.0

Right Acre Limit: 24.0

POU Total Acres: 52.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 24 acres within the authorized place of use in a single irrigation season.
2. Rights 29-14467, 29-14468, 29-14469, and 29-14470 when combined shall not exceed the irrigation of 52 acres.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. 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 place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 86045

WATER RIGHT NO. 29-14467
As Modified by Transfer No. 86045

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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. 29-2426B
As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-2426B is now described as follows:

Right Holder: BRADLEY R HOGGAN
 PO BOX 193
 DOWNEY, ID 83234-0193

Priority Date: 3/2/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.480 cfs	126.0 af
STOCKWATER	01/01	to 12/31	0.040 cfs	
			0.480 cfs	126.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 33 Twp 11S Rge 37E BANNOCK 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	
11S	37E	33			36.0														36.0

POU Total Acres: 36.0

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	
11S	37E	33			X														

CONDITIONS OF APPROVAL

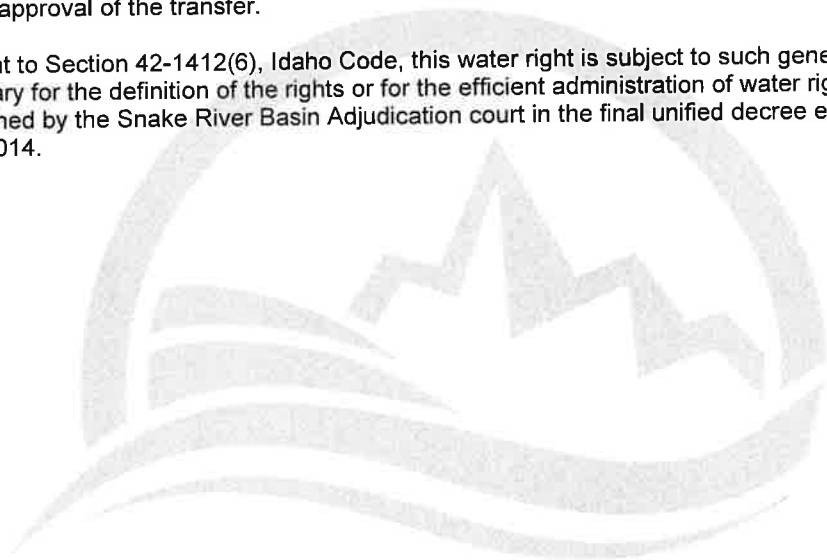
1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
2. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Transfer No. 86045

WATER RIGHT NO. 29-2426B
As Modified by Transfer No. 86045

CONDITIONS OF APPROVAL

5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
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 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 29-14468**As Modified by Transfer No. 86045**

In accordance with the approval of Transfer No. 86045, Water Right No. 29-14468 is now described as follows:

Right Holder: BRADLEY R HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193

Priority Date: 3/2/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.050 cfs	14.0 af
			0.050 cfs	14.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 23 Twp 11S Rge 37E BANNOCK 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	
11S	37E	23			35.0	8.1									0.8	8.1			52.0

Right Acre Limit: 4.0
POU Total Acres: 52.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 4.0 acres within the authorized place of use in a single irrigation season.
2. Rights 29-14467, 29-14468, 29-14469, and 29-14470 when combined shall not exceed the irrigation of 52 acres.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. 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 place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 86045

WATER RIGHT NO. 29-14468
As Modified by Transfer No. 86045

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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. 29-2328**As Modified by Transfer No. 86045**

In accordance with the approval of Transfer No. 86045, Water Right No. 29-2328 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
CATHY P HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193

Priority Date: 1/31/1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.020 cfs	433.5 af
			1.020 cfs	433.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NESW	Sec 23 Twp 11S Rge 37E	BANNOCK County
GROUND WATER	NWSW	Sec 23 Twp 11S Rge 37E	BANNOCK 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	
11S	37E	23									34.0	34.0	34.0	34.0					136.0

POU Total Acres: 136.0

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.
2. RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. USE OF THIS RIGHT WITH RIGHT NO. 29-12566 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 136 ACRES IN A SINGLE IRRIGATION SEASON.

Transfer No. 86045

WATER RIGHT NO. 29-14469
As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-14469 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
 CATHY P HOGGAN
 PO BOX 193
 DOWNEY, ID 83234-0193

Priority Date: 1/31/1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.180 cfs	76.5 af
			0.180 cfs	76.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 23 Twp 11S Rge 37E BANNOCK 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	
11S	37E	23			35.0	8.1									0.8	8.1			52.0

Right Acre Limit: 24.0
 POU Total Acres: 52.0

CONDITIONS OF APPROVAL

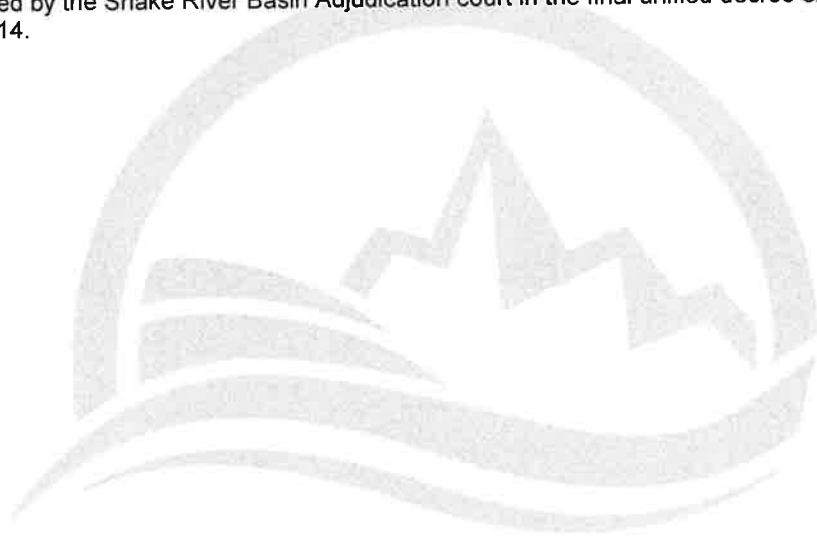
1. This right is limited to the irrigation of 24 acres within the authorized place of use in a single irrigation season.
2. Rights 29-14469 and 29-14470 when combined shall not exceed the irrigation of 24.0 acres.
3. Rights 29-14467, 29-14468, 29-14469, and 29-14470 when combined shall not exceed the irrigation of 52 acres.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. 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 place of use.

Transfer No. 86045

WATER RIGHT NO. 29-14469
As Modified by Transfer No. 86045

CONDITIONS OF APPROVAL

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.



WATER RIGHT NO. 29-12566
As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-12566 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
 CATHY P HOGGAN
 PO BOX 193
 DOWNEY, ID 83234-0193

Priority Date: 7/13/1956

Source: WASTE WATER **Tributary:** NINEMILE CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	0.990 cfs 0.990 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER NESE Sec 23 Twp 11S Rge 37E BANNOCK 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	
11S	37E	23									21.0	25.0	33.0	33.0					112.0

POU Total Acres: 112.0

CONDITIONS OF APPROVAL

1. USE OF THIS RIGHT WITH RIGHT NO. 29-02328 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 136 ACRES IN A SINGLE IRRIGATION SEASON.
2. 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.

WATER RIGHT NO. 29-14470

As Modified by Transfer No. 86045

In accordance with the approval of Transfer No. 86045, Water Right No. 29-14470 is now described as follows:

Right Holder: BRADLEY R HOGGAN AND
CATHY P HOGGAN
PO BOX 193
DOWNEY, ID 83234-0193

Priority Date: 7/13/1956

Source: WASTE WATER

Tributary: NINEMILE CREEK

BENEFICIAL USE
IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
0.210 cfs
0.210 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER NESE Sec 23 Twp 11S Rge 37E BANNOCK 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	
11S	37E	23			35.0	8.1									0.8	8.1			52.0

Right Acre Limit: 24.0

POU Total Acres: 52.0

CONDITIONS OF APPROVAL

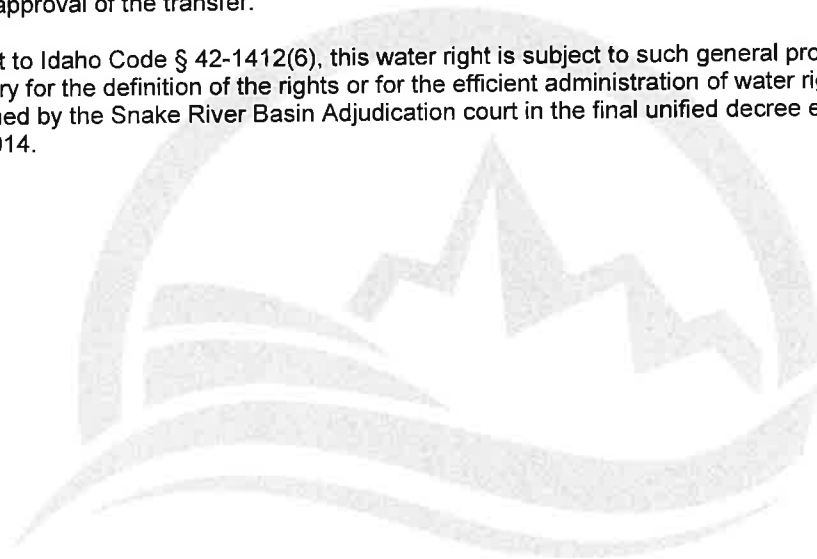
1. This right is limited to the irrigation of 24 acres within the authorized place of use in a single irrigation season.
2. Rights 29-14469 and 29-14470 when combined shall not exceed the irrigation of 24.0 acres.
3. Rights 29-14467, 29-14468, 29-14469, and 29-14470 when combined shall not exceed the irrigation of 52 acres.
4. 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).
5. 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. 29H.

Transfer No. 86045

WATER RIGHT NO. 29-14470
As Modified by Transfer No. 86045

CONDITIONS OF APPROVAL

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 place of use.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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 86045

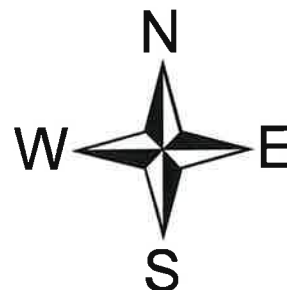
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 125 250 500 Feet



Date: 7/28/2022



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

July 28, 2022

BRADLEY R HOGGAN
CATHY HOGGAN
PO BOX 193
DOWNEY ID 83234-0193

Re: Transfer No: 86045
Water Right No(s): 29-2328, 29-2426B , 29-7190, 29-12566

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:

TJ BUDGE
C/O RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391

WESTERN AG CREDIT FLCA
PO BOX 85850
SOUTH JORDAN UT 84095

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 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.: 86045

Water Right No(s): 29-2328, 29-2426B , 29-7190, 29-12566

**BRADLEY R HOGGAN
CATHY HOGGAN
PO BOX 193
DOWNEY ID 83234-0193**

**TJ BUDGE
C/O RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391**

**WESTERN AG CREDIT FLCA
PO BOX 85850
SOUTH JORDAN UT 84095**



**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.