

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86301**

This is to certify that: CHALLIS CREEK CATTLE CO LLC
PO BOX 10
CHALLIS, ID 83226-0010

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>
72-2149F	WR/DECREED	6/3/1958	N/A	66.7 af	N/A	37.0	CHALLIS CREEK

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>
72-2149F	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>
72-2149F	N/A	N/A	66.7 af	N/A	281.0	N/A				
COMBINED TOTALS		N/A	66.7 af	N/A	281.0		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 25th day of July, 2022.



Southern Region Manager

WATER RIGHT NO. 72-2149F**As Modified by Transfer No. 86301**

In accordance with the approval of Transfer No. 86301, Water Right No. 72-2149F is now described as follows:

Right Holder: CHALLIS CREEK CATTLE CO LLC
PO BOX 10
CHALLIS, ID 83226-0010

Priority Date: 6/3/1958

Source: CHALLIS CREEK

Tributary: SALMON RIVER

BENEFICIAL USE	From	To	Diversion Volume
IRRIGATION FROM STORAGE	4/01	to 10/31	66.7 af
IRRIGATION STORAGE	1/01	to 12/31	66.7 af
			66.7 af

LOCATION OF POINT(S) OF DIVERSION

CHALLIS CREEK	SWSWSW	Sec 23 Twp 14N Rge 17E	CUSTER County	
CHALLIS CREEK	SWNWSW	Sec 21 Twp 14N Rge 19E	CUSTER County	(R)
CHALLIS CREEK	L10 (SWNNWNW)	Sec 7 Twp 14N Rge 19E	CUSTER County	(R)

PLACE OF USE: IRRIGATION FROM STORAGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14N	19E	21			36.0			36.0	37.0	40.0	39.0	12.0		37.0		29.0	15.0		281.0

POU Total Acres: 281.0

PLACE OF USE: IRRIGATION STORAGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14N	17E	23											X						0
14N	17E	26						X	X										
14N	17E	27	X			X													

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. 72A.
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.

Transfer No. 86301

WATER RIGHT NO. 72-2149F

As Modified by Transfer No. 86301

CONDITIONS OF APPROVAL

3. This right does not grant any right-of-way or easement across the land of another.
4. The impoundment of water under this right is contingent upon the issuance of a certificate of approval per the dam safety provisions of Idaho Code and subsequent written authorization by the dam safety program administered by the Department.
5. Irrigation storage is in Mosquito Flat Reservoir.
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.

State of Idaho
Department of Water Resources
Attachment to Transfer # 86301
72-2149F

This map depicts the IRRIGATION STORAGE 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.



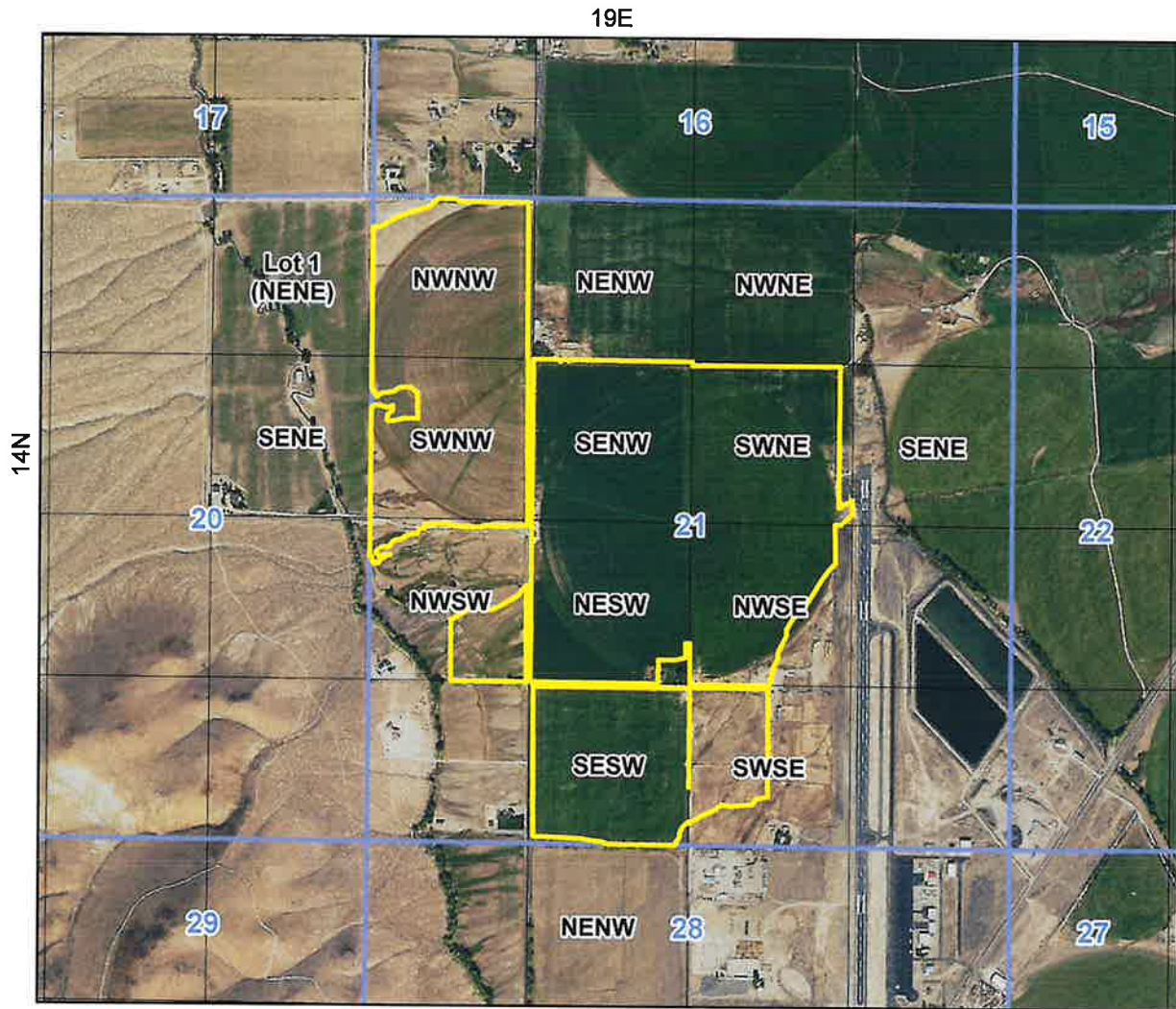
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.1 0.2 0.4 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 86301
72-2149F

This map depicts the IRRIGATION FROM STORAGE 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.



- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.175 0.35 0.7 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

July 26, 2022

CHALLIS CREEK CATTLE CO LLC
PO BOX 10
CHALLIS ID 83226-0010

Re: Transfer No: 86301
Water Right No(s): 72-2149F

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:

HDR INC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

THE BANK OF COMMERCE
C/O WESTERN AGCREDIT
PO BOX 95850
SOUTH JORDAN UT 84095-0850

WATER DISTRICT 170
DAVID GRAYBILL
102 S WARPATH
SALMON ID 83467-4435

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 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.: 86301
Water Right No(s): 72-2149F

CHALLIS CREEK CATTLE CO LLC
PO BOX 10
CHALLIS ID 83226-0010

HDR INC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

THE BANK OF COMMERCE
C/O WESTERN AGCREDIT
PO BOX 95850
SOUTH JORDAN UT 84095-0850

WATER DISTRICT 170
DAVID GRAYBILL
102 S WARPATH
SALMON ID 83467-4435

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910



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 11, 2022
To: Transfer 86301 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes changing the irrigation place of use by adding adjoining lands to create a 281 acre place of use (POU) for a 66.7 acre foot irrigation storage right diverted from Mosquito Flat Reservoir on Challis Creek. The current irrigation POU is located approximately 1.0 to 1.3 miles north and 0.0 to 0.2 miles west of the intersection of Main St. and Hwy 93 in Challis. Application also proposes adding an additional point of rediversion (POR) to the right, which is an existing diversion on the Highline Canal. The Current POR from the Highline Canal is located approximately 1 mile north and 0.4 miles west of the intersection of Main St and Hwy 93 in Challis. Proposed POR is located approximately 0.4 miles north and 0.06 miles west of the current POR. Application also proposes updating the legal description of the irrigation storage POU to more accurately describe the physical location of Mosquito Flat Reservoir.

All PORs and POUs are within Water District 72A and 170. Watermaster comments were solicited, and no response was received. Idaho Department of Fish and Game comments were also solicited, and they did not oppose approval of this application.

- **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 72-2149F was decreed in the SRBA on 11/17/2000. Recent aerial imagery indicates the property associated with this right appears to be irrigated. This right was leased to the Water Supply Bank from 10/1/2007 to 12/31/2020.

- **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.



PROOF OF PUBLICATION
The Challis Messenger

RECEIVED

JUN 27 2022

**DEPT OF WATER RESOURCES
SOUTHERN REGION**

State of Idaho
County of Custer

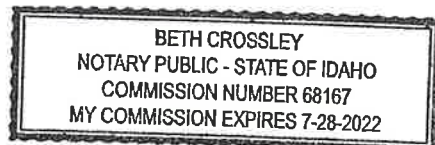
I, ~~Dawn Giannini~~, or Collins Crapo first being duly sworn, depose and say: That I am the ~~Classified Manager~~, or Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Challis Messenger, a newspaper of general circulation, published 1 day, Thursday at Challis, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said The Challis Messenger for 2, first publication having been made on 06/16/2022 last publication having been made on 06/23/2022, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

[Signature]

Subscribed and sworn to before me, on this 23rd day of June, 2022

Beth Crossley



Notary Public
My commission expires:

attached jurat _____

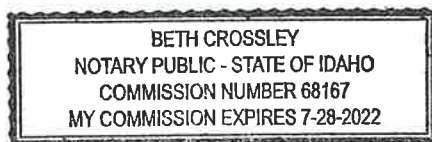
STATE OF IDAHO

SS.

COUNTY OF CUSTER

On this 23rd day of June, 2022 before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini~~ or Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Beth Crossley
Notary Public for APG of the Rockies
Residing: Idaho Falls, Idaho
Commission expires:

✓ AM
7-1-2022

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 86301**

CHALLIS CREEK CATTLE CO LLC, PO BOX 10, CHALLIS, ID 83226-0010 has filed Application No. 86301 for changes to the following water rights within CUSTER County(s): Right No(s). 72-2149F; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the irrigation place of use by adding adjoining lands to create a 281 acre place of use (POU) for a 66.7 acre foot irrigation storage right diverted from Mosquito Flat Reservoir on Challis Creek. The current irrigation POU is located approximately 1.0 to 1.3 miles north and 0.0 to 0.2 miles west of the intersection of Main St. and Hwy 93 in Challis. Application also proposes adding an additional point of diversion (POR) to the right, which is an existing diversion on the Highline Canal. The Current POR from the Highline Canal is located approximately 1 mile north and 0.4 miles west of the intersection of Main St and Hwy 93 in Challis. Proposed POR is located approximately 0.4 miles north and 0.06 miles west of the current POR. Application also proposes updating the legal description of the irrigation storage POU to more accurately describe the physical location of Mosquito Flat Reservoir.

For additional information concerning the property location, contact Southern Region office at (208)736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department 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 **July 5, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published June 16 and 23, 2022 (CM12622-246995)

✓ dm 7.1.2022

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

RECEIVED
JUN 17 2022
DEPT OF WATER RESOURCES
SOUTHERN REGION

Re: Transfer No. 86301

Water Right No(s): 72-2149F

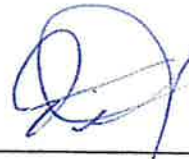
Transfer Applicant's Name: CHALLIS CREEK CATTLE CO LLC
PO BOX 10
CHALLIS ID 83226-0010

Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 13 day of JUNE, 2022

Dept of Fish & Game



Signature

Tom Corot

Printed Name

Mills, Bill

From: Demick, Mike <mike.demick@idfg.idaho.gov>
Sent: Monday, June 13, 2022 8:19 AM
To: Mills, Bill
Subject: RE: Question on Transfer 86301(Challis Creek Cattle Co.)

Thanks Bill. That's all we needed to know. Not opposed. You'll be receiving the recommendation form soon. Thanks again.

Mike

From: Mills, Bill <Bill.Mills@idwr.idaho.gov>
Sent: Monday, June 13, 2022 7:27 AM
To: Demick, Mike <mike.demick@idfg.idaho.gov>
Subject: RE: Question on Transfer 86301(Challis Creek Cattle Co.)

Mike:

No additional water is proposed to be diverted at the original POD on the canal. You are correct, he is just adding the POD to allow for irrigation at the new portion of the POU. If you have additional questions, I'm in the office today, call or email me.

Sincerely,
Bill

From: Demick, Mike <mike.demick@idfg.idaho.gov>
Sent: Thursday, June 9, 2022 2:18 PM
To: Mills, Bill <Bill.Mills@idwr.idaho.gov>
Cc: Richards, Jeff <jeff.richards@idfg.idaho.gov>
Subject: Question on Transfer 86301(Challis Creek Cattle Co.)

Hello Bill: We have a few questions on this transfer. Can you please contact me when you return?

The main question is - Is any additional water being proposed to be diverted from Challis Creek at the original Highline Canal POD? I don't think there is, but just want to double check. It appears he just wants to change his POD location to better irrigate a new place of use (recently purchased).

Thank you Bill.

Mike Demick
Easement Specialist – Salmon Region
Idaho Dept. of Fish and Game
97 Highway 93 North
Salmon, ID 83467
208-756-6022 (work)
208-866-2593 (cell)

