

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84986**

This is to certify that: GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON, CA 94583-5381

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>
63-34334	WR/LICENSE	1/26/2017	13.100 cfs	3196.0 af	N/A	N/A	BOISE RIVER

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>
63-34334	NO	NO	NO	YES	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>
63-34334	63-34334	13.100 cfs	3196.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		13.100 cfs	3196.0 af	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 July, 2022.


for _____ Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34334**As Modified by Transfer No. 84986**

In accordance with the approval of Transfer No. 84986, Water Right No. 63-34334 is now described as follows:

Right Holder: GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON, CA 94583-5381

Priority Date: 1/26/2017

Source: BOISE RIVER **Tributary:** SNAKE RIVER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
DIVERSION TO STORAGE	09/30	to 02/28	13.100 cfs	
RECREATION	09/30	to 02/28	13.100 cfs	2528.0 af
RECREATION STORAGE	09/30	to 02/28		668.0 af
WILDLIFE	09/30	to 02/28	13.100 cfs	2528.0 af
WILDLIFE STORAGE	09/30	to 02/28		668.0 af
			13.100 cfs	3196.0 af

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER	SWSE	Sec 16 Twp 05N Rge 05W CANYON County
BOISE RIVER	L3 (SENW)	Sec 17 Twp 05N Rge 05W CANYON County

PLACE OF USE: RECREATION, RECREATION STORAGE, WILDLIFE, WILDLIFE 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	
05N	05W	17					X	X	X	X									
									L 4	L 3									

CONDITIONS OF APPROVAL

1. 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).
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. 63.
3. Right 63-34334 authorizes total annual storage volume of 668 acre-feet, 29 acre-feet to be used for the initial filling or carryover storage of the field flooding and 639 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The field flooding established by the storage of water under this right shall not exceed a total capacity of 29 acre-feet or a total surface area of 58 acre(s).

Transfer No. 84986

WATER RIGHT NO. 63-34334

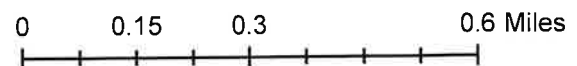
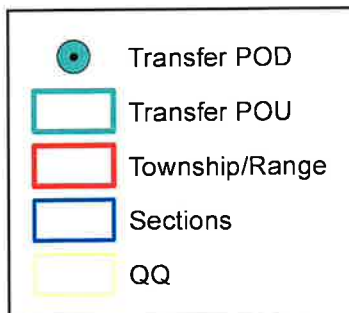
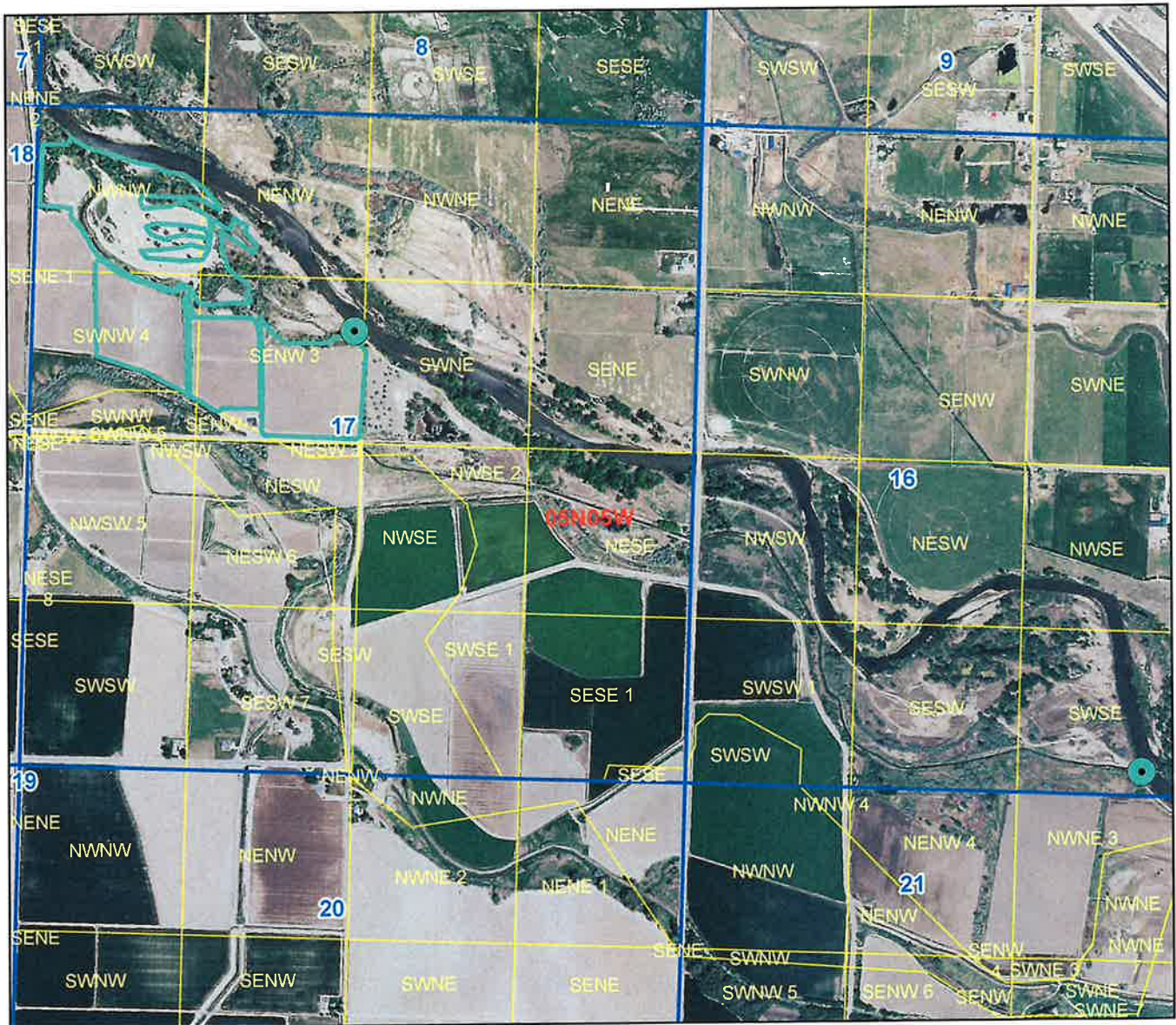
As Modified by Transfer No. 84986

CONDITIONS OF APPROVAL

5. Diversions under water right 63-34334 shall not exceed 13.1 cfs in combination with diversions of irrigation, wildlife, recreation, and diversion to storage water rights appurtenant to the place of use of 63-34334.
6. Water diverted under the wildlife and recreation flow components of this water right, minus evaporation and seepage losses, shall be returned to the Boise River.
7. This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.
8. Wildlife and wildlife storage use is to create shallow water and moist soil wildlife habitats. These habitats are intended to provide resting, roosting, and refuge areas for waterfowl.
9. Recreation and recreation storage use is for waterfowl hunting and wildlife viewing. Recreation use under this right is for flow-through water and return-flow water associated with recreation storage.
10. Any obstruction in the Boise River channel for diversion of water under this right must provide for watercraft and fish passage. The right holder must bypass sufficient flows in the Boise River at the point of diversion to accommodate watercraft navigation and fisheries values in the Boise River downstream of the diversion. The quantity of the bypass flow may be established in the future by the filing of a petition with the Department to establish the bypass flows and subsequent proceedings as described in the Department's Rules of Procedure.
11. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Boise River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
12. This right shall be junior and subordinate to future minimum in-stream flow water rights that may be established for the Boise River and its tributaries.
13. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
14. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
15. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

State of Idaho
Department of Water Resources
Attachment to Transfer No. 84986
Water Right: 63-34334

This map depicts the RECREATION, RECREATION STORAGE, WILDLIFE STORAGE, and WILDLIFE 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.





IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

July 29, 2022

GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON CA 94583-5381

Re: Transfer No: 84986
Water Right No(s): 63-34334
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) 334-2190.

Sincerely,



Nick Miller
Regional Manager

Enclosure
CC:

MICHAEL P LAWRENCE
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

ISLAND HIGH LINE DITCH COMPANY
C/O PARSONS BEHLE & LATIMER
ATTN NORMAN M SEMANKO
800 W MAIN ST STE 1300
BOISE ID 83702

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 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.: 84986
Water Right No(s): 63-34334**

**GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON CA 94583-5381**

**MICHAEL P LAWRENCE
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720**

**ISLAND HIGH LINE DITCH COMPANY
C/O PARSONS BEHLE & LATIMER
ATTN NORMAN M SEMANKO
800 W MAIN ST STE 1300
BOISE ID 83702**



**Nick Miller
Regional Manager**

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

TO: Transfer No. 84986
FROM: Aaron Olson
DATE: 7/27/2022
RE: Evaluation of Application

The purpose of this transfer is to add a point of diversion to water right 63-34334 that will allow water to be pumped from the river during times when the existing gravity delivery ditch is not operating. The additional point of diversion is located in Govt. Lot 3 (SENW) Section 17, T05N, R05W approximately 1.25 miles south of Parma.

Contact person for the applicant is Tom J. Louderback, Manager at (510)-965-6120 or tj@bayareabev.com. The representative for the applicant is Terry Scanlan of HDR Engineering Inc at (208)-872-9530 or terry.scanlan@hdrinc.com. The attorney for the applicant is Michael Lawrence of Givens Pursley LLP at (208)-388-1294 or michaellawrence@givenspursley.com.

Summary of Information Submitted

Authority to File:

IDWR records show the applicant as the current owner of the water rights. The Secretary of State annual report form filed December 21, 2021 lists Tom Louderback as an authorized signer on behalf of Green Head Ranch LLC.

Water Right Validity:

Right presumed to be valid based on license issued within the past five year period. SRBA is not applicable to this right developed after 1987.

Injury to Other Water Rights:

Other water rights should not be impacted by the proposed transfer. The quantity of water used for this right will not change as a result. The proposed transfer was advertised and the single protest received was later withdrawn. There is no evidence that the proposed change will reduce the quantity of water available to other water rights.

Enlargement of Use:

Enlargement does not appear to be an issue. The proposed changes will not result in an increase of diversion rate or volume of water used.

Local Public Interest:

The application proposes a change consistent with the local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Protests to the transfer application have been resolved. Island Highline Ditch Company withdrew its protest to the transfer as outlined in the Settlement Agreement dated April 30, 2022. Settlement Agreement, Water District, and measuring device conditions are included in the water right.

Discussion

Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Olson, Aaron

From: Miller, Nick
Sent: Wednesday, July 27, 2022 10:01 AM
To: Storms, Scott
Cc: Bradbury, Allen; Williams, Marcelina; Olson, Aaron; McSherry, Laura; Shearer, Justin; Clint Lindow
Subject: FW: Settlement Conferences - Returned mail Dry Creek Water Company and Bruce & Bruce

Follow Up Flag: Follow up
Flag Status: Flagged

Here is a confirmation email from Terry that all applications filed by SPF should now be associated with a new HDR contact in our database. Please place a copy of this email in the files and replace the SPF contact with the appropriate HDR contact record as representative.

From: Scanlan, Terry <Terry.Scanlan@hdrinc.com>
Sent: Wednesday, July 20, 2022 12:19 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Graves, Lori <Lori.Graeves@hdrinc.com>
Cc: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>
Subject: RE: Settlement Conferences - Returned mail Dry Creek Water Company and Bruce & Bruce

Hi Nick,

Future correspondence associated with applications submitted by SPF Water Engineering LLC (SPF) or that list SPF as a representative should be directed to HDR Engineering Inc. (HDR) as the representative moving forward. SPF was acquired by HDR in January 2022, and is now part of HDR. The mailing address for HDR is 412 East Parkcenter Boulevard, Suite 100, Boise, ID 83706-6659.

Let us know if there are any other actions that we need to take to accomplish this address change within the Department's database. Thanks.

Terry M. Scanlan, P.E., P.G.
D 208-872-9530 M 208-861-4758

hdrinc.com/follow-us

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Wednesday, July 20, 2022 12:08 PM
To: Scanlan, Terry <Terry.Scanlan@hdrinc.com>; Graves, Lori <Lori.Graeves@hdrinc.com>
Cc: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>
Subject: RE: Settlement Conferences - Returned mail Dry Creek Water Company and Bruce & Bruce

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Terry and Lori,

I have discussed the change from SPF to HDR with other staff and it seems like IDWR could use something to put in the files to document the change. I was wondering if you could send some kind of blanket statement along the lines of "any unapproved applications submitted by SPF or that list SPF as a representative should be directed to HDR as a representative moving forward."

Is this something you guys can provide? Or, is my assumption not correct that you brought your clients with you over to HDR? I can provide a listing of the active applications with SPF entered as a representative if that helps.

Thanks for helping us with our housekeeping!

Nick.

From: Scanlan, Terry <Terry.Scanlan@hdrinc.com>

Sent: Wednesday, June 01, 2022 9:07 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Graves, Lori <Lori.Graves@hdrinc.com>

Cc: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>

Subject: RE: Settlement Conferences - Returned mail Dry Creek Water Company and Bruce & Bruce

Nick,

Yes, that is the correct new address.

I am surprised that the mail is no longer forwarding. I'll check into it.

Terry M. Scanlan, P.E., P.G.
D 208-872-9530 M 208-861-4758

hdrinc.com/follow-us