

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85943**

This is to certify that: KFF 301 TRUST
10998 S 2000 E
SANDY, UT 84092-4710

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>
34-353	WR/DECREED	6/1/1902	2.650 cfs	N/A	N/A	92.0	WARM SPRINGS CREEK
34-420	WR/DECREED	5/1/1902	2.400 cfs	N/A	N/A	138.0	WARM SPRINGS 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>
34-353	NO	YES	YES	NO	NO	NO
34-420	YES	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>
34-353	34-353	2.650 cfs	N/A	92.0	106.0	N/A	N/A	N/A	N/A	N/A
34-420	34-14875	0.240 cfs	N/A	14.0	106.0	34-420	2.160 cfs	N/A	N/A	124.0
COMBINED TOTALS		2.890 cfs	N/A	106.0	106.0		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 May, 2022.


Regional Manager

Transfer No. 85943

Support Data
In File # 34-353

WATER RIGHT NO. 34-353**As Modified by Transfer No. 85943**

In accordance with the approval of Transfer No. 85943, Water Right No. 34-353 is now described as follows:

Right Holder: KFF 301 TRUST
10998 S 2000 E
SANDY, UT 84092-4710

Priority Date: 6/1/1902

Source: WARM SPRINGS CREEK

Tributary: BIG LOST RIVER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

5/01
1/01

To

to 10/15
to 12/31

Diversion Rate

2.650 cfs
0.020 cfs
2.650 cfs

LOCATION OF POINT(S) OF DIVERSION

WARM SPRINGS CREEK NWSE

Sec 34 Twp 08N Rge 22E CUSTER 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	
08N	22E	34	32.0			24.0									20.0				76.0
08N	22E	35										30.0							30.0

Right Acre Limit: 92.0

POU Total Acres: 106.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	22E	34	X			X									X				
08N	22E	35										X							

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 92 acres within the authorized place of use in a single irrigation season.
2. Rights 34-353 and 34-14875 when combined shall not exceed the irrigation of 106 acres.
3. 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. 34.

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WATER RIGHT NO. 34-353
As Modified by Transfer No. 85943

CONDITIONS OF APPROVAL

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. 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 period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
7. Stockwater use is for 100 range cattle.
8. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
9. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
10. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.
11. Water is delivered through the Lower Fish Hatchery Canal (Freeman Ditch).
12. This right does not grant any right-of-way or easement across the land of another.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
15. 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. 34-420**As Modified by Transfer No. 85943**

In accordance with the approval of Transfer No. 85943, Water Right No. 34-420 is now described as follows:

Right Holder: KFF 301 TRUST
10998 S 2000 E
SANDY, UT 84092-4710

Priority Date: 5/1/1902

Source: WARM SPRINGS CREEK

Tributary: BIG LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	5/01	to 10/15	2.160 cfs
STOCKWATER	1/01	to 12/31	0.020 cfs
			2.160 cfs

LOCATION OF POINT(S) OF DIVERSION

WARM SPRINGS CREEK	SWNWSW	Sec 26 Twp 08N Rge 22E	CUSTER County
WARM SPRINGS CREEK	SWNESE	Sec 27 Twp 08N Rge 22E	CUSTER County
WARM SPRINGS CREEK	NWNWSE	Sec 27 Twp 08N Rge 22E	CUSTER County
WARM SPRINGS CREEK	NENWSW	Sec 27 Twp 08N Rge 22E	CUSTER 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	
08N	22E	26										33.0	34.0						67.0
08N	22E	27													37.0	20.0			57.0

POU Total Acres: 124.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	22E	26										X	X						
08N	22E	27													X	X			0

CONDITIONS OF APPROVAL

1. Rights 34-324B, 34-420 and 34-421 when combined shall not exceed a total diversion rate of 2.97 cfs and the irrigation of 124 acres.
2. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
3. Stockwater use is for 100 range cattle.

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WATER RIGHT NO. 34-420
As Modified by Transfer No. 85943

CONDITIONS OF APPROVAL

4. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
5. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
6. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.
7. Right includes accomplished change in point of diversion pursuant to Idaho Code § 42-1425.
8. 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. Idaho Code § 42-1412(6).

WATER RIGHT NO. 34-14875

As Modified by Transfer No. 85943

In accordance with the approval of Transfer No. 85943, Water Right No. 34-14875 is now described as follows:

Right Holder: KFF 301 TRUST
10998 S 2000 E
SANDY, UT 84092-4710

Priority Date: 5/1/1902

Source: WARM SPRINGS CREEK **Tributary:** BIG LOST RIVER

BENEFICIAL USE **From** **To** **Diversion Rate**
IRRIGATION 5/01 to 10/15 0.240 cfs
0.240 cfs

LOCATION OF POINT(S) OF DIVERSION

WARM SPRINGS CREEK NWSE Sec 34 Twp 08N Rge 22E CUSTER 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	
08N	22E	34	32.0			24.0									20.0				76.0
08N	22E	35									30.0								30.0

Right Acre Limit: 14.0
POU Total Acres: 106.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 14 acres within the authorized place of use in a single irrigation season.
2. Rights 34-353 and 34-14875 when combined shall not exceed the irrigation of 106 acres.
3. 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. 34.
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. 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.

Transfer No. 85943

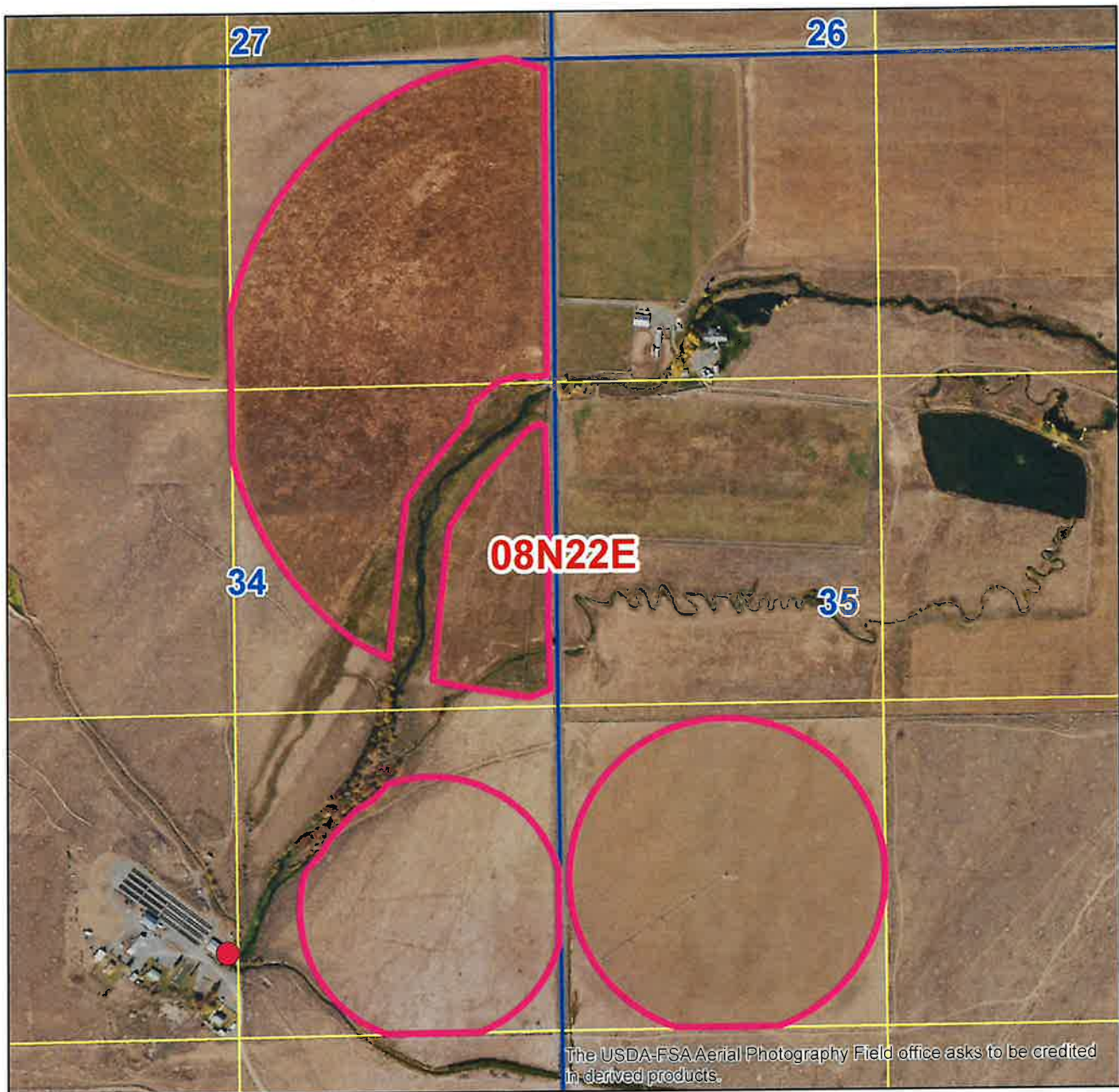
WATER RIGHT NO. 34-14875
As Modified by Transfer No. 85943

CONDITIONS OF APPROVAL

6. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
7. Water is delivered through the Lower Fish Hatchery Canal (Freeman Ditch).
8. This right does not grant any right-of-way or easement across the land of another.
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.

Attachment to Transfer Approval 85943

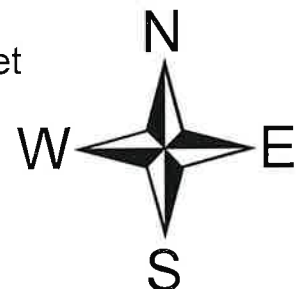
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 375 750 1,500 Feet



Date: 5/23/2022



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

May 23, 2022

KFF 301 TRUST
10998 S 2000 E
SANDY UT 84092-4710

Re: Transfer No: 85943
Water Right No(s): 34-353, 34-420

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:

CERTIFICATE OF SERVICE

I hereby certify that on May 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.: 85943

Water Right No(s): 34-353, 34-420

KFF 301 TRUST

10998 S 2000 E

SANDY UT 84092-4710



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.